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Geyer, Hon. H. S.
Kansas Controversy.



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Book 639

SPEECH

OF

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HON. H. S. GEYER, OF MISSOURI,

ON THE

KANSAS CONTROVERSY.

DELIVERED IN THE SENATE OF THE UNITED STATES, APRIL 7-8, 1856.

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KANSAS CONTROVERSY.

The Senate, as in Committee of the Whole, having under consideration the bill to authorize the people of the Territory of Kansas to form a constitution and State government, preparatory to their admission into the Union, when they have the requisite population—

MR. GEYER said: Mr. President, my position, as the sole representative of the people of Missouri in this Chamber, will not permit me to decline a participation in a debate which has no other attractions for me. I engage in it, therefore, as a work of necessity rather than one of taste and inclination. The circumstances under which it was inaugurated indicate the purpose to make political capital out of the disturbances in Kansas, with a view to the pending elections, State and Federal. In such a controversy I could have no disposition to engage here in the Senate; but the debate has embraced questions of enduring interest, of the legislative history and power of Congress in respect to the Territories, the constitutional and political relations of the States and people of this Union towards each other, and their reciprocal obligations and duties, as well as of the events in Kansas since the organization of the government in that Territory. Upon some of these topics I intend to address the Senate, and especially on those which more immediately concern the people of Missouri.

All agree that there have been disturbances in Kansas, but we disagree as to their origin, nature, and extent. The honorable Senator from New Hampshire [MR. HALE] opened this discussion by a bold denunciation of the President of the United States as the instigator of mob violence in Kansas. This was followed by the Senator from Massachusetts, [MR. WILSON,] the Senator from Illinois, [MR. TRUMBULL,] and the Senator from Iowa, [MR. HARLAN,] in an attempt to throw on the people of Western Missouri the entire responsibility for these disturbances.

The subject having been referred to the Committee on Territories, we have two reports. That of the minority is founded on theory, differing from all others, and affirms that the acts of all parties engaged in the disturbances were justifi-

able under the temptations presented by the Kansas-Nebraska act; or, in other words, that the responsibility for all the acts of violence which have been committed or threatened rests with the Congress which passed that act. On the other hand, the majority report places the responsibility where I am disposed to place it—upon those who operate at a safe distance, and expose themselves to none of the dangers of the strife which they foment and promote.

Mr. President, the minority report undertakes to apologize for my constituents, as well as for those who engaged in the contest at the instigation or under the patronage of associations in the other States, but does it on an assumption that I cannot admit, and I feel a stronger desire to vindicate them against that apology than all else which has been said in this Chamber. I cannot agree that they have yielded to a temptation, which it is said this law presented, and the encouragement it gave to acts of violence and disorder; and that they have been unable to restrain themselves when unprovoked by assaults from another quarter; nor will I consent to accept for them a defense intended for their assailants, and which for that purpose only, regards the acts of both parties as justifiable, if not praiseworthy.

In order to sustain the conclusions of the minority report, its author goes back a great distance, and brings under review "the action of Congress in relation to all those thirteen Territories" which are now States of the Union, and affirms that "it was conducted on a uniform principle to settle by a clear provision the law in relation to the subject of slavery, by which it was expressly prohibited or allowed to remain, not leaving it in any one of those cases open to controversy—that this was done under a power too clear to be doubted, and resulted in securing peace and prosperity—that by the act of the 6th of March, 1820, a contract was made that Missouri should be admitted without prohibition, and slavery forever abolished in the rest of the territory ceded by France, north and west of that State—that under this arrangement Missouri was admitted

as a slaveholding State, Arkansas organized as a Territory, and slavery allowed therein, and afterwards admitted as a slaveholding State. That in 1850 a second contract was made, the slaveholding States agreeing that the organization of New Mexico and Utah as Territories without prohibition should, together with the existing laws, settle forever the whole subject—that both the contracts, called compromises, were broken and disregarded by the act of 1854—that this measure is a novel experiment, as well as a breach of faith, proclaiming an open course for a race of rivalry, provoking and encouraging a struggle for political supremacy, the necessary consequence of which was strife in the Territory organized, and in that struggle it was justifiable, and even commendable, for all persons to engage individually, or by organized associations.¹³ These propositions I shall take leave to controvert.

The first attempt, under the Constitution, to settle, by a clear provision, the law on the subject of slavery in a Territory, was in 1819, in the case of Arkansas during the first agitation of the Missouri question. The first enactment of Congress prohibiting slavery anywhere was not in any act for the organization of a territorial government, but in the act of March 6, 1820, authorizing the people of Missouri to form a State government.

All the territory northwest of the Ohio was embraced by the ordinance of 1787, passed by the Congress of the Confederation. It contains two distinct parts: the first is an organic law for the temporary government of the whole district. The second consists of articles of compact between the *original States* and the people and States, in the said Territory, to provide, among other things, "for the establishment of States and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original States." This compact, the sixth article of which prohibits slavery in the Territory, it was declared should "remain forever unalterable unless by common consent." Though the ordinance was passed without constitutional authority, it was regarded as a compact by Congress in their subsequent legislation under the Constitution. The obligation of the compact being recognized, the organization of Territories within the tract of country embraced by the ordinance was made to conform to it; that is to say, the prohibition, which was declared to be perpetual, was not repealed.

There was no provision settling the law on the subject of slavery in any of the acts authorizing any of the territorial governments south of the Ohio, and east of the Mississippi. Where the government was to be similar, or conform to the ordinance of 1787, the sixth article of the compact was excepted. The acts for the organization of temporary governments west of the Mississippi, prior to the year 1836, contain no provision, directly or indirectly, concerning slavery. In all these Territories east and west of the Mississippi there was no provision expressly prohibiting, or allowing slavery. All left it to be regulated by the local law, that is, non-intervention, the principle of the Kansas-Nebraska act, and of the compromise of 1850.

It appears, then, that in seven of the thirteen Territories named in the minority report, there was no provision in the organic laws settling the question of slavery, to which must be added New Mexico and Utah, making nine out of eighteen, organized before the passage of the Kansas-Nebraska act, without prohibition or express recognition of slavery. It should be remembered also, that the whole of the other nine were covered either by the compact of 1787, or the so-called compromise of 1820, recognized as such by the southern States, until they were obliged to surrender all hope that it would be observed, convinced by successive repudiations that it never had been regarded by the other parties as obligatory on them. It is worthy of remark, also, that Congress did not undertake, nor did the southern States ever ask them, to establish, or even to recognize, slavery by law anywhere.

But it is enough that, in all the Territories where slavery actually existed to any considerable or general extent, and in at least two where it did not in fact exist—making nine out of eighteen—there was no interference with the subject by Congress. So that the act of 1854 is not "a novel experiment."

The legislation of Congress in relation to the Territories is claimed in the minority report to "furnish a practical contemporaneous construction" of the Constitution, establishing the power of Congress in the Territories on the subject of slavery to be absolute and unlimited, and *that*, beyond the possibility of doubt or apology for skepticism. This position the honorable Senator from Vermont [Mr. COLLAMER] has attempted to reinforce in his speech, and, as I entertain a very different opinion, I propose to examine the precedents upon which he relies.

The ordinance of 1787 embraced all the territory northwest of the Ohio; and, although it was recognized by Congress after the adoption of the Constitution in the acts organizing territorial governments in that district of country, it was not reenacted. The new government was bound by all the contracts of the Confederation. That obligation, in respect to the ordinance of 1787, was recognized by Congress in the acts referred to, which assented to the organic law already in force, but did not attempt to reenact or repudiate any "article of the compact between the original States and the people and States in the Territory." These acts of Congress were passed in the execution of a contract of recognized obligation, not under an independent power of legislation. And here I take occasion to remark, that what occurred in respect to the recognition of the compact of 1787 occurred also in respect to the supposed compromises at a later period. It appears that southern representatives, when they suppose that they have made a contract, do not seek for excuses to escape from its obligation, (although it be not legal,) while it is observed by other parties. Although the original compact was without constitutional authority, they did not scrutinize the powers of the Confederation in order to contest the legal validity of the sixth article, or any other of the compact or organic law contained in the ordinance; it was enough for them

to know that a compact was intended, and they recognized the moral obligation to observe it. So, for thirty years after the Missouri compromise so-called, and until they lost all hope of its recognition or observance by the other parties, they adhered to it with unwavering fidelity.

I passed over the act of 2d August, 1789, because, although the honorable Senator from New Hampshire claimed it to be a reenactment of the ordinance of 1787, the proposition was abundantly refuted by the honorable Senator from Georgia, [Mr. Toombs,] whose interpretation of the act I understood to be assented to by the honorable Senator from Iowa, [Mr. Harlan;] and that is, to adapt the ordinance to the present Constitution by transferring to the executive department of the new government the power of appointing and removing officers vested by the ordinance of the Congress of the Confederation, and to provide for the case of vacancies in the office of Governor. This is all that was intended or accomplished by the act.

The honorable Senator from Vermont [Mr. Collamer] endeavors to sustain his proposition, that the disputed power over slavery in the Territories is established by the contemporaneous construction of the Constitution, by referring to the act of 1798, providing for the government of Mississippi Territory, the first instituting a territorial government independent of any compact, and in territory over which the United States exercised jurisdiction, though Georgia claimed adversely. That act did not purport to prohibit or regulate slavery in the Territory, but left it to the local law by excluding the sixth article of the ordinance of 1787. The assertion of a general power over the subject is inferred by the Senator from a clause prohibiting the introduction of slaves from any place "without the United States." Was not the honorable Senator aware that this clause depends on the power to regulate commerce, to prohibit the foreign slave trade, except in States existing at the adoption of the Constitution, prior to 1808, and everywhere in the United States afterwards?

The act of 26th March, 1804, providing for the government of the Territory of Orleans, (part of Louisiana,) was referred to by the Senator for the same purpose. It contains the same provision, enacted under the same power, and prohibits also the introduction of slaves which had been imported into the United States against law, after the 1st May, 1798, or by any person other than a citizen of the United States, *bona fide* emigrants, and settlers. Of this act it is enough to say, that it was not passed under any claim of power to prohibit or establish slavery in a Territory, but is to be referred to the power before-mentioned. The honorable Senator omitted, however, to state that the act was repealed in less than a year by the act of 3d March, 1805, and therefore it is not available as a precedent, still less does it afford evidence of the contemporaneous construction claimed.

There was an attempt to abolish slavery in Arkansas in 1819, in direct opposition to the principle which the honorable Senator from Vermont says was uniform, that is, "where slavery

was actually existing to any considerable or general extent," as in Arkansas, "to suffer it to remain." In that case there was a well-sustained effort on the part of the northern Representatives to impose a prohibition, and finally there was a tie vote—eighty-eight to eighty-eight. Arkansas was saved by the casting vote of the Speaker. A majority of all the Representatives of every non-slaveholding State, with perhaps one exception, voted in favor of the prohibition.* This, according to the minority report, was a violation of principle by every State, a majority of whose Representatives voted to prohibit slavery in Arkansas; and the decision against the prohibition must be regarded as a construction of the Constitution against the power claimed.

The eighth section of the act of 1820, called the Missouri compromise, was not passed in the execution of any power to organize territorial governments. It is either a compact, or an ordinary provision of law; if the former, it is not a precedent for any act prohibiting slavery in the Territories under the Constitution, independent of a compact. As an ordinary act of Congress, it depends for its effect wholly on the Constitution. As a compact it may not be legally obligatory, but it imposes a moral obligation on the parties independent of the law. The act in question is a precedent only as an ordinary act of legislation, passed, as the Senator from Vermont says, by the southern States, and being repealed, or more properly, declared "inoperative and void" by a constitutional act of Congress, it ceases to be a precedent of any authority.

The legislation of Congress respecting slavery in the Territories, embraced by the eighth section of the act of 1820, is to be referred to the obligation of the supposed compact, and not to the assertion of a constitutional power independent of any compact. The prohibition of slavery north of 36° 30' in Texas was by compact between that State and the United States. Its validity depends upon the power of Texas, and not upon any independent act of Congress, under the Constitution. On the other hand, the acts for the organization of New Mexico and Utah are precedents against the exercise of the power claimed.

The Senator from Iowa relies upon the acts of Congress enabling the people of the respective States of Ohio, Indiana, and Illinois, to form constitutions; providing that they should not be repugnant to the ordinance of 1787, as examples of the legislative construction of the Constitution, in favor of the power claimed over the Territories; but it is obvious that the clause in question was intended only to recognize the obligation of the compact, and not the exertion of an independent power under the Constitution, otherwise it must be regarded as nothing less than an attempt to dictate a constitution, the assertion of a power which no Senator here will attempt to maintain.

There is, however, a precedent in which the authority to dictate the provisions of a State constitution was asserted by Congress, independent

* See Appendix, No. 1.

of any compact, in the act of February, 1811, authorizing the people of Louisiana to form a constitution and State government, which provided that "the constitution shall contain the fundamental principles of civil and religious liberty, to secure the trial by jury, the writ of *habeas corpus*, &c. That the laws should be promulgated and the records kept; judicial and legislative proceedings conducted in the language in which such proceedings, &c., in the United States are conducted and published." This example of congressional legislation would certainly not be regarded at this day as an authoritative exposition of the Constitution.

Pending the Missouri question, in 1819 and 1820, the Legislatures of the non-slaveholding States, almost without exception, resolved that Congress possessed the constitutional power; and the Representatives of all of them almost unanimously voted to impose upon Missouri, as a condition to the formation of a State government, that slavery should be forever prohibited by the constitution. No such power is claimed now; it is referred to only to test the value of legislative precedent in settling a question of legislative power.

I admit that the cotemporaneous exposition of the Constitutions, as well as laws, is of the highest authority. The received interpretation of the several clauses of the Constitution to which the honorable Senator from Vermont referred, however, is founded on cotemporaneous history, not legislative precedents, or examples of legislative construction. An act of Congress, where the question of its constitutionality is fairly presented, fully considered, and directly decided, is doubtless entitled to high consideration as a precedent; but it is by no means of conclusive authority.

Having now shown that the constitutional power asserted in the minority report is not maintained by cotemporaneous construction, I propose to extend the inquiry still further. The honorable Senator from Vermont, in his report—the constitutional question being directly in the way—makes a very summary disposition of it. Referring to the alleged practice of Congress, in settling the law on the subject of slavery in the Territories by a clear provision prohibiting or tolerating it at discretion, the report informs us that

"This was done by Congress in the exercise of the same power which moulded the form of their organic laws, and appointed their executive and judicial, and sometimes their legislative officers. It was the power provided in the Constitution, in these words:

"Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

"Settling the subject of slavery while the country remained a Territory, was no higher exercise of power in Congress than the regulation of the functions of the territorial government, and actually appointing its principal functionaries. This practice commenced with this national Government, and was continued, with unintermitted uniformity, for more than sixty years. This practical cotemporaneous construction of the constitutional power of this Government is too clear to leave room for doubt, or opportunity for deception."

Mr. President, I have had occasion to examine the subject, and believe I have traced to their origin the errors into which many have fallen in

respect to the source and extent of the power of Congress over the Territories. I have recently fully discussed the question at large in another, and, perhaps, a more appropriate forum. On the present occasion I shall content myself with presenting rather the heads of an argument, or statement of propositions, than an elaboration of the points.

It is not my purpose to deny the constitutional power of Congress to institute temporary governments in the Territories, establishing what the Senator from Vermont appropriately terms municipal corporations; and that is the whole extent of power exercised in practice under the Constitution prior to 1820. But I cannot agree that the power of settling the law on the subject of slavery in the Territories is vested in Congress.

The power of Congress to organize municipal governments for the Territories, has been claimed,

First. Under the power to dispose of, and make all needful rules and regulations respecting the territory and other property of the United States.

Second. As resulting from the power to acquire territory by treaty or conquest.

Third. As resulting from the fact that the territory is within the United States, and not within any State.

Fourth. Under the power, after the first of January, 1808, to prohibit the migration or importation of such persons as any State then existing may think proper to admit.

Fifth. Under the power to admit new States into the Union.

From whatever source the power is derived, it is a power to create a corporation or temporary government only, and does not carry with it supreme, universal, and unlimited power over the persons or property of the inhabitants, nor authorize the abolition of slavery, or interference in any form with the laws of property. I can find authority, I think, for the establishment of a municipal government, but none in the Constitution of the United States giving power over persons or property, which does not extend to persons and property within the States as well as Territories.

The clause of the Constitution, article one, section nine, in respect to the migration and importation of persons from abroad, was relied on as the source of the power asserted in the Missouri controversy. It was claimed that Congress possessed the power to prohibit slavery in that State, as necessary to the execution of the power to prohibit the migration and importation of slaves; but after the debate on that memorable occasion, I know of no man who has ever looked to that clause as the source of the power to prohibit slavery in the Territories or elsewhere. There have been some cases in which the subject has been mentioned in the Supreme Court of the United States, but the question of power never decided. The first is the case of *McCullough vs. Maryland*,* decided in 1819, in which the argument is to deduce a power to incorporate a Bank of the United States, under the general clause giving to Congress power to pass all laws neces-

* 4 Wheaton, 424.

sary and proper to carry into effect the powers granted by the Constitution; and in order to illustrate the argument, the Chief Justice, delivering the opinion of the court, said:

"The power to make all needful rules and regulations respecting the territory or other property belonging to the United States," is not more comprehensive than the power "to make all laws which shall be necessary and proper for carrying into execution the powers of Government." Yet all admit the constitutionality of a territorial government, *which is a corporation.*"

This is the first intimation of the recognition of that power even to create a corporation. In the case of the American Insurance Company vs. Canter, decided in 1826, Chief Justice Marshall delivered the opinion of the court; and he there expresses some doubt as to the source of the power to create even a territorial government. He says:

"Until it becomes a State, Florida continues to be a Territory of the United States, governed by virtue of that clause (art. 4, sec. 3.) which empowers Congress to make all needful rules and regulations respecting the territory or other property belonging to the United States.

"Perhaps the power of governing a Territory may result necessarily from the fact, that it is not within the jurisdiction of a particular State, and is within the power and jurisdiction of the United States.

"The right to govern *may* be the inevitable consequence of the right to acquire territory

"Which ever be the source from whence the power is derived, the possession of it is unquestionable."

Afterwards the construction of the clause conferring upon Congress the power to dispose of and make all needful rules and regulations respecting the territory or other property of the United States, was directly before the Supreme Court in the case of the United States vs. Gratiot, decided in 1840. Mr. Justice Thompson, delivering the opinion of the court, said:

"The term *territory*, as here used, is merely descriptive of one kind of property, and is equivalent to the word 'lands;' and Congress has the same power over it as it has over any other property belonging to the United States; and this power is vested in Congress without limitation, and has been considered the foundation on which the territorial governments rest."

That is, the subject of the power is property, and the property only of the United States, not that of inhabitants of States or Territories.

The minority report assumes that, under the power to *dispose* of and make all needful rules and regulations respecting the territory or other property belonging to the United States, Congress may not only organize municipal governments, but possess a power absolute, universal, and unlimited, over the local laws, the persons and property of the inhabitants within any Territory within the United States, and not within any State of the Union. This, in my opinion, is a great error, which, I think, may be traced to the misapprehension, by commentators and others, of the opinions of the Supreme Court which I have quoted.

In the commentaries on the Constitution by the late Mr. Justice Story, the power to govern is said to result from the power to acquire territory, and that no one ever doubted the authority of Congress to erect territorial governments within the territory of the United States, under the general language of the clause giving power to make needful rules and regulations respecting the territory or other property belonging to the United

States; that this power is clearly exclusive and universal, and the legislation of Congress is subject to no control, but is absolute and unlimited except so far as it is affected by stipulations in the cessions or the ordinance of 1787, under which any part of it was settled; that the final result of the vote which authorized the erection of the State of Missouri seems to establish the rightful authority of Congress, although not then applied, to impose a restriction of slavery as a condition of admission.

Chancellor Kent, in his commentaries, seems to have adopted the views of Justice Story. He says:

"With respect to the vast territories belonging to the United States, Congress have assumed to exercise over them supreme powers of sovereignty." "Exclusive and unlimited power of legislation is given to Congress by the Constitution, and sanctioned by judicial decisions."

Now, it has been shown that, in no act of Congress passed under the Constitution prior to 1820, did Congress assume supreme powers of sovereignty. Municipal corporations were established for the government of the Territories, and to this extent only was the power of Congress recognized by judicial decisions. There is no adjudged case affirming the power to be exclusive and unlimited.

The commentator, after quoting and remarking upon the clause conferring legislative power over the District of Columbia, proceeds:

"The general sovereignty existing in the Government of the United States, over its Territories, is founded on the Constitution, which declared that Congress 'should have power to dispose of and make all needful rules and regulations respecting the *territories* or other property belonging to the United States.'"

This is a misquotation of the Constitution; the word *territory*, which has been interpreted by the Supreme Court to mean *land*, gives place to *territories*; a term applied *after* the adoption of the Constitution, and not before, to the district of country erected into municipal governments or corporations. But Chancellor Kent, appreciating the nature of the power he supposed to have been assumed, remarks:

"Upon the doctrine taught by the act of Congress, and even by the judicial decisions of the Supreme Court, the colonists would be in a state of most complete subordination, and as dependent upon the will of Congress as the people of this country would have been upon the King and Parliament of Great Britain, if they could have sustained their claim to bind us in all cases whatsoever. Such a state of absolute sovereignty on the one hand, and of absolute dependence on the other, is not congenial with the free and independent spirit of our native institutions; and the establishment of distant territorial governments, ruled according to will and pleasure, would have a very natural tendency, as all preconsular governments have had, to abuse and oppression."

Mr. President, is this not a fearful power to be deduced by complication from a power to institute a municipal government, itself implied as incident to some power granted by the Constitution? It is nothing less than an assertion of a power opposed to the fundamental principles of free government, to establish an absolute dominion over the persons and property of all the inhabitants of the Territories of the United States.

I think I find, in the proceedings of the convention, in the articles of confederation, and in the ordinance of 1787, compared with the Consti-

tution of the United States, conclusive evidence that the convention did not contemplate the establishment of colonies. The ordinance of 1787 had covered the whole of the territory then supposed to belong to the United States, and over which they had jurisdiction. I see that the Senator from Connecticut [Mr. TOUCEY] signifies his dissent to the proposition.

MR. TOUCEY. I do.

MR. GEYER. I know there was a controversy about territory south of the Ohio. I said "then supposed to belong to the United States;" and at the time of the adoption of the Constitution the ordinance did cover all territory over which Congress had the admitted jurisdiction.

In the convention which formed the Constitution, Mr. Madison made propositions to confer upon Congress several distinct powers, and among others, "to dispose of the unappropriated lands of the United States: to institute temporary governments for new States arising therein;" and "to exercise exclusive legislative authority at the seat of the General Government, and over a district around the same not exceeding — square miles." Two of these propositions were found incorporated in the Constitution in other language, but in apt words to express the intention of the convention. The power to establish temporary governments for States or Territories is not found in the Constitution. Certainly there is no such power expressly granted; and that omission is of itself conclusive, in my judgment, against the power now claimed. That convention, when about to confer powers of exclusive legislation over persons or property, found apt words in which to express their intent.

The mover of the propositions certainly understood them to be distinct. It never occurred to him that a power to *dispose of unappropriated lands* comprehended a power to institute temporary governments, and still less general and exclusive legislative authority; nor, I apprehend, did the convention, by substituting "territory or other property" in lieu of "unappropriated lands" as the subject of the power granted, intend to include the other powers proposed.

If it had been designed to confer a power to exercise general and exclusive legislation over the inhabitants in the Territories in all cases whatsoever, it would have been the easiest thing imaginable to have expressed that intention by the insertion of a few words in the clause which provides that Congress shall have power

"To exercise exclusive jurisdiction, in all cases whatsoever, over such district, (not exceeding ten miles square,) as may, by cession of particular States and the acceptance of Congress, become the seat of Government of the United States; and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

Why not insert also "to exercise like authority over the territory belonging to the United States, or which may hereafter be acquired," if so large a power was intended to be granted? It will be observed that the original proposition was limited to the seat of government: the latter part of the clause, embracing sites of forts, arsenals,

&c., was added by the convention; and while the subject of legislation over territory within the exclusive jurisdiction of the United States was before them, if they had intended to confer the disputed power, apt words to accomplish it would have been inserted.

I agree that all needful rules and regulations may be made in reference to anything which is the subject of the power granted by the clause in question. Whatever Congress can regulate under that power, it may dispose of, and *dispose of absolutely*; and whatever Congress may dispose of, it may regulate; and it cannot regulate anything under that clause which it cannot dispose of absolutely.

In Story's Commentaries it is said, truly, that "the power is not confined to 'territory,' but extends to other property belonging to the United States; so that it may apply to the regulation of other personal or real property rightfully belonging to the United States." The learned commentator, however, afterwards says, that "the power of Congress over the public territory is clearly exclusive and universal; but the power to regulate other national" property is not necessarily exclusive unless "Congress have acquired by cession exclusive jurisdiction: that is to say, the power in question attaches to territory 'as property;' but the regulation of other property belonging to the United States depends upon its being of a particular description, over which Congress acquires jurisdiction under another clause of the Constitution."

But I submit that both the power and jurisdiction of Congress over the subject of the grant under the clause in question, depends upon the proprietary interest of the United States in it, whether it be territory or other property. There is no power to dispose of it, or regulate it, unless it is the property of the United States; and, if it is, Congress may dispose of, or regulate it, wherever situate; but the power and jurisdiction depart with the proprietary interest in territory, as well as in other property.

All difficulty in ascertaining the subject of the power under the clause respecting the territory, &c., will be solved by accepting the interpretation of the Supreme Court of the United States, in the *United States vs. Gratiot*; substituting the words "public lands" for "territory," the clause will read—"Congress shall have power to dispose of and make all needful rules and regulations respecting the *public lands* or other property belonging to the United States." This would be sensible and consistent; but substituting for the word "territory" something which is to indicate a local government, calling it by the name of "province" or "corporation"—

MR. CASS. Colony.

MR. GEYER. Yes, sir; insert the word "colonies," and it will read: "Congress shall have power to dispose of and make all needful rules and regulations respecting the *colonies* or other property belonging to the United States." Let it stand in that form; and where is your power to dispose of the public lands? It cannot cover both; it either means land, the original primary sense of the word, or it means what the advocates

of the power to prohibit slavery in the Territories contend for—colonies.

That the subject of the power represented by the word "territory" is the unappropriated lands, appears by the proviso, or later branch of the clause in question, "that nothing in the Constitution shall be so construed as to prejudice any claims of the United States or any particular State." "This," said Mr. Madison, "is proper in itself, and was probably rendered absolutely necessary by jealousies and questions concerning the western territory, sufficiently known to the public." The claims mentioned were undoubtedly claims to unappropriated lands, and had no relation to colonies, municipal governments, or legislative power over the persons or property of individuals.

The primary sense of the word "territory," undoubtedly is land, or a tract of country; and it does not appear to have been employed in any other sense before the adoption of the Constitution. In the resolutions by Congress, and the cessions by the States, "lands," "unappropriated lands," "territory," and "tract of country," are terms employed to mean the same thing; sometimes two or three of them are used as convertible in the same instrument. The term "territory" was in no instance employed in the sense of colony, nor applied to designate a political or municipal division or government. What are now called Territories were organized as "districts" before and for some time after the adoption of the Constitution. The governments northwest and south of the Ohio were for "districts." The term "territory" was gradually substituted for "district" in legislation, since the adoption of the Constitution.

Whatever is meant by the word "territory," is the subject of the power. Congress may make rules and regulations concerning it, whether situated in a State or elsewhere. The power attaches to the territory wherever it is; and if it is a power to abolish slavery, Congress may exercise it in the States wherever the United States have property. It attaches only to "territory or other property belonging to the United States" at the time of the exertion of the power, and not to that which never did belong to them, or which has been disposed of.

To organize a municipal Government or corporation for a district of country, to prohibit slavery, or interfere in any way with the law of property, is not to "make needful rules and regulations respecting the territory or other property of the United States" within such district. Such a government extends over all the territory and all the inhabitants within the limits defined, whether the territory belongs to the United States or not; and is no more necessary or proper where the Government owns all, than where it owns none of the territory. Therefore, the power to institute such a government, and more especially, an unlimited power to legislate in all cases whatsoever over persons and property in the Territories, cannot be deduced from the clause in question, which is nothing more than a delegation of power to Congress as the agent of the United States, the proprietor of real estate

and other property, to dispose of that property and to make rules and regulations respecting it, wheresoever situated; that is, for its protection, preservation, and management, while it remains the property of the United States, and no longer.

Another source of the power of Congress over the Territories is supposed to be found in the power of acquisition. The power to govern is claimed as an incident to the power to acquire, to be exercised by Congress under the general authority "to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government, or any department thereof." Now it occurs to me that, when territory is acquired by treaty, the power to acquire *quo ad* the subject of the treaty, is exhausted. The acquisition is complete when ratifications of the treaty are exchanged. The power of acquisition is executed, and needs no legislation to carry it into execution.

But it is said, and may be conceded, that the United States acquire the exclusive sovereignty and political jurisdiction of territory acquired by treaty or conquest. Such, undoubtedly, is the effect of the acquisition under the law of nations. It does not follow, however, that Congress has unlimited power to legislate over the territory or the inhabitants acquired. Congress derives no intra-territorial powers from the laws of nations. The sovereignty and jurisdiction are vested in the nation, not in Congress. I deny that Congress can acquire any power to legislate over the acquired territory, or the persons and property of the inhabitants, even by the express provisions of a treaty, or exercise any power not granted by the Constitution.

It may be true that the people would be without any government at all, unless Congress possess the power to establish it; but it does not necessarily follow that the power to organize a government, and legislate for the territory and its inhabitants, results from the power of acquisition. It may be a *casus omissus*; but unless the power can be deduced from some other source, it does not exist. The sovereign undoubtedly has power over the acquired territory, and might change or abrogate the laws; but, I repeat, Congress is not sovereign, and possesses no power not granted by the Constitution.

The source of power under consideration fails, also, for the reason that the power, if it exists, may be exercised over any territory—as well that within the original limits of the United States, as that acquired by treaty or conquest.

And again, according to all the rules of construction, a legislative power cannot be deduced by implication from a power which is itself implied. The power of acquisition is not among the powers vested by the Constitution in the Government or any department thereof: it is an incident to the war or treaty power.

I come now to the consideration of the power to admit new States as the source of the power to institute temporary governments for the people of the Territories. From that source the majority report derives the power in question. The proposition is, that the organization of a temporary

government is necessary and proper, as a means, to enable the people to mold their institutions, and organize a State government under the authority of the Constitution, preparatory to its admission into the Union. It is objected, however, that the Constitution contemplates the admission of States in cases where it would not be necessary to institute a temporary government, and where the power could not be exercised by Congress—that the power of admission comprehends all States, whether formed out of territory of the United States, or of one or more States of the Union, or even of a foreign State, as in the case of the annexation of Texas. Undoubtedly, in such case, it would not be necessary or proper, or even competent, for Congress to institute any government, whether the territory forming the new State was acquired by treaty or otherwise, after the adoption of the Constitution, and whether the United States are the proprietors of the whole or none of the "territory or property" included. But the institution of a temporary government is necessary and proper when the territory is within the limits of the United States, and not within a State. In that case there is no conflict of jurisdiction to prevent the exercise of the power by Congress, which, if it exists at all, "results necessarily from the fact, that the territory is not within the jurisdiction of any particular State, and is within the power and jurisdiction of the United States." It does not depend on any proprietary right of soil—there may be no "territory or other property belonging to the United States" within it to be disposed of or regulated; nor upon acquisition—it is immaterial to the question of power whether the territory was or was not within the original limits of the United States; nor upon the number of the inhabitants—it may be more populous than any State in the Union, or contain few or no inhabitants. The power of Congress over it is the same.

The institution of temporary governments for the people of a Territory is undoubtedly necessary and proper, though not always indispensable as a means preparatory to the formation of a new State, and its admission into the Union; and where the Territory is within the exclusive jurisdiction of the United States, the power of Congress to organize a government results of necessity as a means appropriate to the accomplishment of a constitutional end.

The power to create a government or municipal corporation for the people of a Territory is nowhere conferred upon Congress by express grant; it is claimed only as an incident to some power, "vested by the Constitution in the Government of the United States, or a department thereof." Therefore, from whatever source it is derived, to which soever of the granted powers it is referred, it is limited to the necessity from which it arises, and is not a supreme, universal, and unlimited power over persons and property.

The power over persons and property under the Constitution of the United States must be, and is the same everywhere. It must be exercised in subordination to the principles of the Government. It does not depend on the nature of the property. To change the law of property,

—to prohibit or abolish slavery—to emancipate slaves, to confiscate any other kind of property, or to divest vested rights, is a substantive, independent power. If it exists no treaty would afford protection to the inhabitants of acquired territory. No legislative power can be extinguished, or conferred upon Congress, by treaty.

If the power to create a municipal corporation, or to organize a government in any form for the people of the Territories, had been expressly granted, it would not carry with it, as an incident, a power of legislation in all cases whatsoever over the people and their property. Still less can such a power be deduced by implication from a power itself implied.

Now, sir, I demand to know, is a prohibition of slavery a rule or regulation, needful or otherwise, respecting the territory or other property belonging to the United States? or is it necessary to the execution of the power to dispose of land? If "to dispose of territory" means to organize a municipal government for the people, the prohibition of slavery—an interference with the law of property or with vested rights—is not necessary to the execution of the power, nor is it in any way a means adapted to the end. The power, if not otherwise limited, cannot be exercised to the prejudice of the people of any portion of the Union. All have equal rights in the common territory to take and to hold there any property recognized by the Constitution and local laws.

Here allow me to correct an error into which those northern gentlemen have fallen who suppose that we of the slaveholding States claim to carry our domestic institutions with us on removing into the Territories. So far as my knowledge extends, we only insist that where, by the law of the Territory, our property will be protected when there, we have a vested right to go there with that property—as much so as any citizen of any other State in the Union with any other property; and that it is an unconstitutional interference with that right so to legislate as to deprive us of the protection which the local law would afford, and thereby effectually exclude us from the Territory. Slaves are property, recognized by the Constitution, and as well protected as any other. Emancipation by law divests vested rights; and, if you can prohibit slavery for the future, you may at any time emancipate, by act of Congress, every slave in any or all the Territories. The supreme, universal, and unlimited power which is equal to prohibition is equal to abolition and emancipation regardless of vested rights.

Finally, the organization of a temporary government is necessary; but it is not necessary to emancipate slaves, to prohibit slavery, to confiscate property, or to change the local law of property; nor is it necessary, or just, or even defensible, to interfere with the right of any citizen of the United States to remove to the country open to others with any property recognized by the Constitution and laws of the United States and the local law of the Territory.

Mr. President, I come now to another part of the subject—the "peace and prosperity," which it is said have attended interference by the Con-

gress of the United States with the local law of property. I deny that there has been uninterrupted peace, by which is meant exemption from agitation of the slavery question; and what little we have had is not attributable to any such cause as that assigned. I have shown that up to 1820 there was no legislation on the subject which could affect the peace of the Union in any way; but the peace which we have enjoyed is attributable to another cause.

I do not know whether I may not be alone in the opinion, but it seems to me apparent, that at all times, when there have been two great national parties, and so long as they have adhered to their organization, and continued their struggle for the ascendancy, there has been no formidable agitation on the subject of slavery. The first attempt—certainly the first successful attempt, to prohibit slavery in the Territories followed almost immediately the utter destruction of the old Federal party, soon after the Hartford convention in 1814; and the troubles which we now have, and have had, since 1848, are the result of the crumbling of the two parties, to some extent, in that year, and the disorganization and dismemberment of the Whig party since that time.

Mr. President, I shall have occasion to speak of the proceedings and acts of a portion of our northern brethren on the subject of slavery, and I take leave now to say, that, however general the terms I employ in reference to them, I by no means design to include a majority of the people of the non-slaveholding States. I believe they are generally conservative, abiding the compromises of the Constitution, and respecting the rights of the southern States. Unfortunately, in common with their fellow-citizens in other States, when not stimulated to exertion by the rivalry of national organizations, they are too apt to relax their vigilance, and suffer the unworthy minority to act in the name of all, by which they are made responsible for acts they condemn; but, whenever the consequences have excited apprehensions of danger to our institutions, they have rallied to the support of the Constitution and the preservation of the Union. They will do so again.

Soon after the acquisition of Louisiana there were decided manifestations of discontent at the North, not on account of the Africans then held in slavery in the acquired territory—their condition was not changed, nor on account of any apprehended increase of their numbers—for Congress promptly exercised its constitutional power to prohibit the importation of slaves into that Territory; so that the practical effect of the annexation was to restrict slavery extension—but the real cause of the discontent then exhibited was the compromises of the Constitution, which secured to the southern States a portion of their political power.

During the war of 1812, and almost in the midst of it, a convention was held at Hartford, in Connecticut, where, among the subjects taken into consideration, were the slave power under the apportionment of Representatives, the admission of new States, and the exclusion of foreigners from office. The proceedings of the convention

resulted in several propositions to amend the Constitution. The first, to exclude the slave population altogether as a basis of representation; second, that no new State should be admitted without the concurrence of two thirds of both Houses. The sixth amendment proposed is not unlike one of the planks in the platform of another new organization. It proposes to exclude from office all persons thereafter naturalized. The report of the convention to their constituents sets forth the reasons for each proposition, from which I read extracts:

"The first amendment proposed relates to the apportionment of Representatives among the slaveholding States. This cannot be claimed as a right." * * * "It has proved unjust and unequal in its operation. Had this effect been foreseen, the privilege would probably not have been demanded; certainly not conceded. Its tendency in future will be adverse to that harmony and mutual confidence which are more conducive to the happiness and prosperity of every confederated State, than a mere preponderance of power, the prolific source of jealousies and controversy, can be to any one of them."

* * * * *

"The next amendment relates to the admission of new States into the Union.

"This amendment is deemed to be highly important, and, in fact, indispensable." * * * "At the adoption of the Constitution a certain balance of power among the original parties was considered to exist; and there was at that time, and yet is among those parties, a strong affinity between their great and general interests. By the admission of these States that balance has been materially affected, and, unless the practice be modified, must ultimately be destroyed."

* * * * *

"Another amendment, subordinate in importance, but still in a high degree expedient, relates to the exclusion of foreigners, hereafter arriving in the United States, from the capacity of holding offices of trust, honor, or profit.

"That the stock of population already in these States is amply sufficient to render this nation, in due time, sufficiently great and powerful, is not a controvertible question. Nor will it be seriously pretended, that the national deficiency in wisdom, arts, science, arms, or virtue, needs to be replenished from foreign countries."

The Federal party did not long maintain its organization after the close of the session of the Hartford Convention. Its last struggle for supremacy was made in the elections in 1816, when it was signally defeated. At the commencement of the first session of the Fifteenth Congress, in 1817, it was made a matter of boast by the Republican press, that there were only six Federalists elected to the House of Representatives in all New England. During that session, on the 4th of April, 1818, Mr. Livermore, of New Hampshire, introduced into the House a joint resolution proposing an amendment to the Constitution in these words:

"No person shall be held to service or labor as a slave, nor shall slavery be tolerated, in any State hereafter admitted into the Union, or made one of the United States of America."

This proposition met with little favor at the time, but afterwards it was attempted to be enforced against Missouri without any amendment of the Constitution.

At this period, Rufus King was a member of the Senate, and was then, as he had been before, an aspirant for the Presidency. The Federal party, of which he was a distinguished member, had dissolved. There was no hope of success for him, or of preference of his adherents, but by

a sectional organization; and at the next session of the same Congress commenced the agitation of the slavery question, which, in its progress, threatened the stability of our institutions.

A resolution for the admission of Illinois into the Union was earnestly opposed, because the constitution contained a clause allowing slaves to be employed in that State on hire, for a limited period; and on the final passage there was a formidable northern vote against the resolution. But there was a more perfect union of the northern Representatives, and its purpose was more fully developed, on the bill to authorize the people of Missouri to form a constitution and State government. In the House of Representatives a clause was inserted, making it a condition of admission that slavery should be forever prohibited; it was stricken out by the Senate, and the bill was lost by the disagreement of the two Houses. It was at the same session that the attempt was made to prohibit slavery in Arkansas, to which I have before alluded.

The agitation was continued during the whole of the recess. The Legislatures of most of the non-slaveholding States adopted resolutions affirming the constitutionality of the proposed restriction, the same, in substance, that Mr. Livermore proposed to impose on all new States by an amendment to the Constitution. They instructed or requested their Representatives to vote against the admission of any State with a constitution which did not contain positive prohibition of slavery. Some of them demanded the imposition of the restriction on Missouri by name.

Under these circumstances the Sixteenth Congress met, and, after a severe struggle and unparalleled excitement, passed the act of 6th March, 1820, of which I shall speak hereafter.

This memorable agitation of the slavery question in Congress occurred during a period of exemption from political party controversy; but it was not a time of peace. It was the period called the "era of good feeling," when, in my judgment, more mischief was perpetrated, more constitutional heresies recognized by Congress in its legislation, than during any other equal period in our history. It was followed by a short period of exemption from agitation of the slavery controversy, not the consequence, however, of the legislation of Congress, but the result of the reorganization of national political parties, commenced in 1825, destroying all hope of the success of a sectional party.

There were Abolitionists then as now, of both wings, to which the honorable Senator from Vermont has alluded. They were comparatively quiet, however, until about the year 1833, when they commenced operations in the North with great activity. In 1835, there were two great parties completely organized, both national, and therefore not disposed, if they could afford, to encourage Abolitionism or Free-Soilism. The consequence was, that the abolition orators were not favorably received, or kindly treated, in the northern cities. Their meetings were suppressed by violence in Utica, New York; Montpelier, Vermont. In Boston they were denied access to Faneuil Hall; and when they assembled at an-

other place they were expelled by a mob. I have before me an account of the celebration of the twentieth anniversary of that riot.

It appears that the newspaper press of both political parties, in all the northern States, were earnest and eloquent in their denunciations of that abolition movement. I commend to the editors who now sustain organizations much more dangerous, to read again their productions, and reconcile, if they can, the present with the past. Here is a specimen from the *New York Courier and Enquirer*:

"It is time now for this subject to be taken in hand seriously. The movements of the immediate Abolitionists involve not merely the welfare of our country, but the very existence of her institutions; and every citizen, from Maine to Mississippi, who has not already made up his mind to a willingness to see our Confederacy dissolved, our whole frame of government broken up, and an experiment made to better it amidst the confusion, misery, and bloodshed of a revolution, is bound to grapple at once with the *sedition* fanaticism now abroad. It has become the duty of all classes and all parties—of the hall of legislation—of the press—of the pulpit, and of every good citizen within his own particular sphere of influence, to assist in putting down this treason that is stalking through our borders."

There are several other extracts from different journals of that period, of like import, and not less worthy of perusal. It may be instructive to contrast the past with the present position of the northern press.

The Reverend Theodore Parker, comparing the present with the past condition and prospects of his party, in a speech delivered at the celebration to which I have alluded, says:

"Since this day twenty years ago, what a step! See all these parties coming up into power—the Free Soil party, the Republican party—which are only the wings of the great anti Slavery party which is to be, and will command the continent. Just now, it is very plain that the only question before the people, at the next national election, will be, 'Shall the slave power possess the presidential officer, or shall the power of freedom possess it?' I say, there is to be only one question before the people, and that is the question."

The Legislatures of some of the non-slaveholding States were not less decided than the press in the condemnation of political agitations on the subject of domestic slavery. I have before me resolutions passed by the Legislature of New York, in 1836, condemning all such agitations in clear and emphatic language; contrasting strongly with the resolves of the Legislature of the same State during the pendency of the Missouri question, and with some very recently adopted. The same remarks will apply to the resolves of other northern Legislatures at the different periods mentioned.

Political agitation on the subject of slavery was renewed by northern members pending the propositions for the annexation of Texas, and resulted in a provision making it one of the conditions that slavery should forever be prohibited in States to be organized north of 36° 30'. Nor did that quiet agitation; it was resumed during the Mexican war, when an attempt was made to prohibit slavery in anticipation of the acquisition of territory by an amendment to an appropriation bill.

The peace of the country was again interrupted by the renewal of the agitation of the disturbing question of domestic slavery in the first attempt to legislate for the territory and people acquired

by the treaty with Mexico in 1848. The controversy was attended with greater excitement in Congress, and caused more apprehension among the people than any other since 1820, until it was finally adjusted by the compromise measures of 1850. The efficiency of the Democratic party had been greatly impaired by the defection of its Free-Soil members who organized a new party at Buffalo. The Whig party, greatly reduced in numbers, was also composed in part of Free-Soilers, who coöperated with the party organized at Buffalo and the Abolitionists, in promoting, instead of discountenancing, agitation in Congress. The compromise of 1850, we are informed by the minority report, "secured votes from the free States, enough, with those of the slaveholding States, to adopt it;" but "it was not satisfactory to the free States;" and the Senator from Vermont tells us that they acquiesced in it very reluctantly. It is undoubtedly true that the Abolitionists and Free-Soilers in the North were dissatisfied with that compromise; and those of them who professed to acquiesce in it, did so because acquiescence seemed to be very general, and there was no hope of preferment without it. Many of them succeeded in getting into the Thirty-Third Congress under the name of Whigs; and, during the discussion of the Kansas-Nebraska bill in the House, they contended that opposition to that bill was a principle of the Whig party. My honorable friend from the other House, now near me, [MR. LINDLEY,] knows that I speak by the card, when I say they so asserted. The Abolitionists and Free-Soilers who made that pretense, are now known by another name. The conservative National Whigs from the North, who were in that Congress, with few exceptions, although they voted against the bill, have been made to give place to the representatives of a new sectional organization, animated by a spirit of aggression—the source of our troubles now.

Mr. President, I will now direct my attention to the allegation that solemn compacts were broken and compromises disregarded by the passage of the Kansas-Nebraska act in 1854. The first is the so-called Missouri compromise.

I have already mentioned the agitation of the slavery question, and the failure of the first Missouri bill at the second session of the Fifteenth Congress, and the proceedings and resolves of the State Legislatures in relation to the admission of Missouri. At the first session of the Sixteenth Congress, a second bill to authorize the people of Missouri to form a constitution and State government, became the subject of a most exciting and fearful controversy, which terminated in the passage of the act of 6th March, 1820, by which it is said the slave-holding States secured the admission of Missouri by agreeing and enacting that slavery should be forever prohibited in the territory north and west of that State.

What I have to say in regard to that act will be better understood by reference to the proceedings of the session. There were three distinct measures pending in both Houses. One was the abolition of slavery in the Territories. Notice of a bill for that purpose was given in the House of Representatives by Mr. Strong. Resolutions

were introduced by Mr. Taylor, of New York, and a joint resolution by Mr. Foot, of Connecticut. Notice of a bill to prohibit slavery in the Territories was given, and the bill introduced in the Senate by Mr. Thomas, of Illinois. A bill for the admission of Maine, and the Missouri bill before mentioned. The Maine bill was the first to pass the House; it was amended in the Senate by adding the provisions of the Missouri bill, and a provision prohibiting slavery in the territory north and west of Missouri; thus constituting, by the union of the three measures in one bill, what has since been called an "omnibus." The House disagreed to the amendments, and passed the Missouri bill, with the restriction of slavery as a condition of admission. The Senate, which had before disagreed to the restriction in Missouri, it was known would not yield: there was what the Senator from Massachusetts, [MR. SUMNER,] in the debate on the Nebraska bill, called "a dead lock."

The act of Massachusetts authorizing the people of Maine to form a State government, contained the condition, that the new State should be admitted into the Union before the 4th of March. The Representatives from that part of Massachusetts forming the new State implored a speedy adjustment of the question. Things had become critical, more so for Maine than Missouri; and the 2d of March was a day of activity. A joint committee of conference had been appointed on the disagreements between the two Houses, and, upon their recommendation, the Maine bill was relieved of the amendments of the Senate, and passed; the Missouri bill was amended by striking out the restriction on the State, and attaching to it, as the eighth section, the ninth of the omnibus, prohibiting slavery in the Territory—the appropriate subject of a separate bill, which might as well have been attached to the Maine as the Missouri bill, except that it related to territory adjoining Missouri. Under this arrangement, Maine was admitted into the Union; Missouri was not.

What, then, is the nature and effect of the provision in the act of 1820, the repeal of which is complained of? It must be conceded that, unless it is a part of a compact obligatory on the northern as well as the southern States, it has no higher sanctity than any other act of legislation, repealable at any time.

In the minority report, it is regarded as a stipulation in a compact obligatory on the southern States, though not binding on the northern States, except as an ordinary act of legislation; it being the doctrine of that report, as I understand it, that a State or section can only be bound by the vote of a majority of its Representatives, meaning, of course, *morally* bound by the measure as a compact.

The test vote on the so-called compromise was taken in both Houses, on the 2d March, on striking out the provision prohibiting slavery in that State, as recommended by the committee of conference. In the Senate, one free State only voted in the affirmative; three were divided. In the House of Representatives, of the members from the free States, only fourteen, out of one hundred and one present, voted in the affirmative,

and the majority of the Representatives of every free State voted in the negative, except Rhode Island, which divided.*

It appears, then, that according to the principle of the minority report, not one of the non-slaveholding States was a party to the alleged compact of 1820, or under any legal or moral obligation to observe it as such; and from what has since occurred, it may be inferred that their Representatives acted upon that principle from the first—only as many of their number voting for it as were necessary, together with the votes of the southern Representatives, to carry a measure which they knew was understood by southern members to be a compromise, and which they did not intend should be obligatory on the States represented by them. It was accepted by the southern States, in the hope of receiving exemption from future agitation and aggression; and that they expected to accomplish. They have never asked Congress to legislate slavery into any territory, or establish it anywhere by law. They have always stood on the defensive, claiming only the protection of the laws and exemption from aggression.

The people of Missouri having formed a constitution and State government for themselves, under, and in conformity with, the provisions of the act of 1820, anticipated no opposition to the admission of the State into the Union, and put the new government in full operation; but it was soon ascertained that northern States, having secured the admission of Maine, and the prohibition of slavery in the Territories by law, chose to regard the act of 1820 as an ordinary act of legislation, not a compact; repudiating all obligation, legal or moral, to admit Missouri as a slaveholding State. This is apparent from resolutions passed by the Legislatures of New York and Vermont, as well as the acts and votes of the Representatives of all the northern States in Congress.

The resolutions of Vermont, which I commend to the special attention of the honorable author of the minority report, in terms deny that there was any obligation to admit Missouri, and instruct their Senators and Representatives to vote against the admission of Missouri.

Those of New York reaffirm the resolves of the year before, against the admission of any new State whose constitution does not prohibit slavery.

The resolutions will be found on pages 26 and 50, Senate Journal, second session of the Sixteenth Congress.

At that session Mr. Lowndes, of South Carolina, introduced into the House of Representatives a joint resolution, in the ordinary form, for the admission of Missouri. After an exciting debate, it was rejected by a vote of 79 yeas to 93 nays—a majority of the Representatives of every non-slaveholding State voting in the negative.† The ostensible cause of opposition to Missouri was a clause in her constitution requiring the Legislature to pass laws prohibiting the migration of free negroes and mulattoes into the State; which, it was contended, contravened that clause of the Constitution which declares the citizens of

each State shall be entitled to all the privileges of citizens of the several States.

The Senate passed a resolution, with a proviso to the effect that it should not be construed to give the assent of Congress to any clause in the constitution of Missouri, if any there be, contravening the clause of the Constitution of the United States respecting the citizens of the several States.

In the House, many amendments were proposed to the Senate resolution, requiring that the clause objected to should be expunged from the constitution, as a condition precedent to the admission of the State into the Union. One of them, perhaps more, proposed to constitute the Legislature a convention, with power to amend the constitution as demanded; one was so absurd as to require the clause to be expunged by the Legislature before the 1st of December, 1821, under a constitution which required the concurrence of two successive Legislatures in an amendment to the constitution. All failed, however.

Mr. McLane, of Delaware, submitted a reasonable proposition, the effect of which would have been substantially the same as the resolution afterwards passed; that is, to require such construction of the Constitution and laws of the State as not to deny citizens of each State any of the privileges and immunities of citizens of the several States. It was rejected, as were other amendments of the like import, obviously because the real cause of opposition was not the clause complained of in the debate, which conferred upon the Legislature no power which had not been exercised in other States without complaint.

Massachusetts, whose Representatives always voted against every proposition to admit Missouri under her existing constitution, ostensibly on the ground that, by excluding from the State free negroes and mulattoes of other States, citizens of other States were denied the privileges and immunities of citizens of that State, had, at the time, a law in force which provided:

"That no person, being an African or negro, other than a subject of the Emperor of Morocco, or a citizen of some one of the United States, (to be evidenced by a certificate from the Secretary of the State of which he shall be a citizen,) shall tarry within this Commonwealth for a longer time than two months; and, upon complaint made to any justice of the peace within this Commonwealth, that any such person has been within the same more than two months, the said justice shall order the said person to depart out of this Commonwealth; and in case that the said African or negro shall not depart, as aforesaid, any justice of the peace within this Commonwealth, upon complaint and proof made that such person has continued within this Commonwealth ten days after notice given him or her to depart as aforesaid, shall commit the person to any house of correction within the county, there to be kept to hard labor, agreeably to the rules and orders of the said house, until the sessions of the peace next to be holden within and for the said county; and the master of the said house of correction is hereby required and directed to transmit an attested copy of the warrant of commitment to the said court, on the first day of their said session; and if, upon trial at the said court, it shall be made to appear that the said person has thus continued within this Commonwealth contrary to the tenor of this act, he or she shall be whipped not exceeding ten stripes, and ordered to depart out of this Commonwealth within ten days; and if he or she shall not so depart, the same process shall be had and punishment inflicted, and so *toties quoties*."

It is not credible that, with this law in force in Massachusetts at the time, the Representatives of that State, in both Houses, voted against

* See Appendix, No. 2. † See Appendix, No. 3.

the admission of Missouri for no other cause than that her constitution required similar legislation, though not necessarily so severe. During the debate on the Nebraska bill in the Senate, the Massachusetts law was quoted by the Senator from South Carolina, [Mr. BUTLER,] and both the Senators from Massachusetts said its object was to keep runaway slaves out of that State; it occurred to me then, and I think still, it was the most singular discharge of the obligation of that State under the Constitution that could be imagined, this Massachusetts law for the return of fugitives!—to seize all negroes, bond or free, confine them in a work-house at hard labor for the benefit of the town, and in due time whip them out of the State, the process to be repeated as often as they are caught in the State.

The first law of Missouri providing for the exclusion of free negroes and mulattoes, was drawn by me. It contains most of the provisions of the Massachusetts law, except the work-house part and the Latin; we of Missouri are not so thrifty as to set prisoners detained for trial at hard labor, and coin dimes out of them; nor do we enact laws for the punishment of any persons in a language they do not understand.

After the rejection of Mr. McLane's amendment to the Senate resolution, the subject was referred to a select committee, who reported an amendment, so as to make it a resolution declaring that "Missouri shall be admitted into the Union on an equal footing with the original States in all respects whatsoever upon a fundamental condition;" substantially the same afterwards passed. Mr. Mallory, of Vermont, moved an amendment, which, and the vote upon it, will show how little the Representatives of the North were disposed to regard the so-called Missouri compromise. He moved to amend the amendment of the committee by striking out all after the word *respects*, and insert the following:

"Whenever the people of the said State, by a convention appointed according to the manner provided by the Act to authorize the people of Missouri to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories," approved March 6, 1820, adopt a constitution conformably to the provisions of said act, and shall, in addition to said provisions, further provide, in and by said constitution, that neither slavery nor involuntary servitude shall be allowed in said State of Missouri, unless inflicted as a punishment for crimes committed against the laws of said State whereof the party accused shall be duly convicted: *Provided*, That the civil condition of those persons who now are held to service in Missouri shall not be affected by this last provision."

On this proposition the vote was 61 yeas to 107 nays, a majority of the Representatives of Massachusetts and Vermont, and of every other non-slaveholding State except three, voting in the affirmative.* This I regard as a direct disavowal of the alleged compromise, denying all obligation to admit Missouri with "a constitution conformably to the provisions of the act of 6th March, 1820," and requiring the formation of a new constitution, not only in conformity with that act, but expressly prohibiting slavery within that State.

The amendment proposed by the select com-

mittee to the Senate resolution was agreed to, but the resolution as amended was rejected on the third reading. It was afterwards reconsidered, and again rejected. On each vote rejecting the resolution a majority of the Representatives of every free State voted in the negative.

On the 22d February, Mr. Clay proposed a joint committee to take into consideration and report on the expediency of admitting Missouri, or making some provision adapted to her actual condition. Such a committee was accordingly appointed, and reported a joint resolution, which was afterwards passed. It was reported on the 26th of February. The resolution was ordered to a third reading, and passed the House on the same day by a vote of 87 yeas against 81 nays. Every non-slaveholding State, except two, voting by a majority of its Representatives against the admission of Missouri, even on the fundamental condition contained in the resolution.* In the Senate the vote was more favorable.

The joint resolution having passed both Houses was approved on the 2d of March, 1821. The fundamental condition was afterwards accepted by Missouri by a solemn public act, as required, which formed a compact between the United States and Missouri for the admission of that State.

The act of 1820 enabled the people of Missouri to form a constitution and State government; they availed themselves of it, formed a constitution under its provisions, and in conformity with them. The State became entitled to admission by the terms of the law, but was rejected by the non-slaveholding States. She is in the Union under a compact between her and the United States, made in 1821, and not under any supposed compromise between the northern and southern States in 1820.

The northern States having repudiated the Missouri compromise by refusing to admit Missouri, after having procured the admission of Maine and the prohibition of slavery in the Territories by law, the southern States were under no obligation, legal or moral, to observe it longer; but, as I have said, they continued to regard it as binding both parties, and on every suitable occasion endeavored to obtain a recognition of it by the northern States, but without success.

When the bill to organize the Territory of Oregon was before the Senate in 1848, an amendment recognizing the Missouri compromise was proposed and carried; every southern Senator voting for it; and (if I am not mistaken) every northern Senator present against it, with few exceptions. It was defeated in the House of Representatives by northern votes. This I regard as a decided disavowal of the obligation of that compromise.

Still southern representatives continued to hope and to urge the recognition of that compromise, until they were compelled themselves to abandon it by the votes of the northern States in the attempt at legislation for the territory acquired by treaty with Mexico. During the memorable controversy which was settled by the compro-

* See Appendix, No. 4.

* See Appendix, No. 5.

mise measures of 1850, southern representatives repeatedly endeavored to obtain a recognition of the Missouri compromise so-called by extending it to the newly-acquired territory, and were always repulsed by the northern States. They had no other alternative, therefore, than to accept and act upon the interpretation given by the northern States to the legislation of 1820 from the beginning, to be obeyed while in force, but subject to repeal in the same manner as other acts of Congress having none of the sanctity of compacts.

The compromise of 1850 was a practical renunciation of the Missouri compromise by both parties; the compromise line, so-called, was obliterated, and the principle of non-intervention, which before only applied to the territory south of that line, was extended to the whole of the newly-acquired territory. The southern States did not ask Congress to legislate slavery into any territory; they asked only what they were entitled to of right, that there should be no intervention; and to obtain that they were obliged to make new concessions.

The act of 1854 was no violation of any existing compact or compromise, but the constitutional repeal of an ordinary act of Congress of doubtful authority as a law, and of no moral obligation as a compact. The most that can be said is, that the legislation of 1820 was carried, and the Missouri prohibition repealed, by the vote of the southern States, without the assent of the northern States; and there it ends both as a compromise and a precedent of legislative construction of the Constitution.

The compromise of 1820, as it is called, always disowned by northern representatives, was thus finally renounced by all parties, and now the representatives of southern States are charged with a breach of faith in repealing the Missouri prohibition, which had always been regarded by the North as an ordinary act of legislation. It is true, as the honorable Senator from Vermont says, that it was repealed by the southern States, their representatives, with a few honorable exceptions, voting for it, and a majority of the representatives of the free States against it; but what of that? If the North did not assent to the repeal, it never assented to the compromise; there was a larger northern vote in favor of the repeal, than in favor of the alleged compromise of 1820.

TUESDAY, April 8, 1856.

Mr. President, I now proceed to the consideration of the Kansas-Nebraska act, the circumstances which attended its passage, and the consequences that flowed from it. The objections are stated in the minority report. I refer to that, because I take it to be the exhibition of the entire strength of the argument, clearly and forcibly stated, of that side of the Senate belonging to what is called the Republican anti-Nebraska party, against the act.

The provision upon which the commentary is made is this:

"That the Constitution, and all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth

section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of 6th of March, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

The first remark I have to make on this clause is, that it does not legislate slavery into the Territory of Kansas; it does not assume the power to establish it. On the contrary, the proviso was adopted on the motion of a southern Senator for the express purpose of excluding any conclusion to that effect. It was moved, I understand, (for I was absent at the time,) at the suggestion of an honorable Senator from Michigan. In the next place, it states truly that the Missouri prohibition is inconsistent with the principle of the legislation of 1850. The so-called Missouri compromise was based on a geographical line—with the prohibition on one side and non-intervention on the other. The compromise of 1850 obliterated that line, and established non-intervention everywhere as the principle of legislation for the Territories. The legislation of the two periods are inconsistent in principle. I admit that, as legislative acts, they might stand together; but when we speak of legislative compromises, which depend entirely for their binding force on the moral obligation of the parties to observe, we refer to the principle established, rather than the district to which it is applied, in a particular case. A principle of legislation adopted as a compromise of a sectional controversy, always dangerous to the harmony and stability of the Union, fails of its purpose if it is not applied to all cases where such controversy may arise. The compromise of 1850 adopts a principle of legislation for the government of Territories, applicable, and to be applied, to all such legislation for *any* Territory, or it is a mere temporary expedient of legislation, not a compromise of a controversy.

The next subject of complaint is the provision in respect to the right of suffrage. It is said that persons are entitled to vote on a very short residence. In Kansas and Nebraska it could not be otherwise; a provision that would require any length of residence as a qualification, in territory not previously settled, would be misapplied. It should always be borne in mind, when we refer to examples of territorial legislation, that down to the year 1820, all Territories were organized by establishing for them what is called the first grade of government—vesting the powers of legislation in a governor and judges. In the Territory of Orleans, now State of Louisiana, there was added a council; not elective, however. Under this organization, the Territory was settled, and the people prepared for the second grade of government, with an elective Legislature, and it was then very proper to require some length of residence as a qualification of voters.

The next objection is to the provision allowing aliens, who have merely made a declaration of an intention to become citizens, to vote. This provision was, I believe, inserted as an amendment. I was not present at the time, and do not know the reason of its adoption. It is by no means remarkable, however, that such a provision should be found in the legislation of Congress for the Territories, since it is found in that of several of the States. It seems to me more remarkable that the honorable author of the minority report did not perceive that it might prove a cause of disturbance in Kansas as it has elsewhere.

The minority report complains that "the subject of slavery, which Congress has been unable to settle in such a way as the slave States will sustain, is now to be turned over to those who have or shall become inhabitants of Kansas," to arrange "regardless of their character, political or religious views, or place of nativity." This objection implies that Congress ought to have made some test of character, or of political or religious views, or place of nativity, as a qualification for suffrage or office; but I apprehend that such legislation for the Territories would scarcely be tolerated, although it might settle questions as exciting as any connected with slavery, and which have already produced disturbances more serious than any that have occurred in Kansas. I need not recount the scenes of disorder, riot, and even bloodshed, at St. Louis in 1854, and more recently at Cincinnati, Louisville, and New Orleans, far transcending in violence, and more fatal in their results, than any in Kansas.

The minority report proceeds:

"Thus was the proclamation to the world to become inhabitants of Kansas, and enlist in this great enterprise, by the force of numbers, by vote, to decide for it the great question. Was it to be expected that this great proclamation for the political tournament would be listened to with indifference and apathy? Was it prepared and presented in that spirit? Did it relate to a subject on which the people were cool or indifferent? A large part of the people of this country look on domestic slavery as 'only evil, and that continually,' alike to master and to slave, and to the community; to be left along to the management or enjoyment of the people of the States where it exists, but not to be extended, more especially as it gives, or may give, political supremacy to a minority of the people of this country in the United States Government."

The conclusion of the honorable author of the report is, that it was the right and duty of all parties interested in that question to make an effort to overcome each other on the theater of this political tournament, and proceed to justify the organization of the aid societies, by saying that associated effort was as commendable for this purpose as any other could be; and that "it was their right and duty to put forth all reasonable exertions, by lawful means, to advance the great object,"—political supremacy. It was to accomplish what I have shown the Hartford Convention proposed to accomplish by an amendment to the Constitution—to overpower the southern States by depriving them of that portion of representation which is founded on slave population. Do we not see, sir, that from the beginning the policy was first to prohibit slavery in the Territories, and make them free States, as they necessarily must be under such legislation, until a sufficient

number should be brought into the Union to repeal that clause of the Constitution which gave to the southern States a portion of their political power?

This reminds me of a part of the history of the past, which I omitted yesterday. In 1818, on the 12th of March, John Quincy Adams, then Secretary of State, vindicated our title to Texas by an unanswerable argument, in a letter to the Spanish Minister. At that time the effort had been made to abolish slavery in all the Territories, with a view to the great object of political supremacy. If the attempt had been successful, Texas, then being a part of our territory, might have been formed into half a dozen free States; all the territory west of the Mississippi, except Missouri, would also have been organized into free States, and the time would not have been far distant when that much desired object, political supremacy, might have been accomplished, as originally proposed at Hartford, by an amendment to the Constitution. But, sir, the first attempt had failed, and the result of the controversy then pending in Congress was doubtful; when there occurred what then seemed to me a mysterious change of policy. In the very next year the whole of Texas was ceded to Spain, and \$5,000,000 paid in exchange for Florida. This is one of the reasons why I said yesterday that, during the "era of good feeling," more mischief was perpetrated than in any other equal period of our history.

Well, sir, Texas was ceded; the whole controversy was then confined to our territory in the north of it; and, in my opinion, but for that, there would not have been a sufficient number of northern votes obtained to carry the legislation of 1820, even with the prohibition of slavery north of the line then established, leaving open to southern States only what is now Arkansas and the country immediately west, and that upon the principle of non-intervention, which left it equally open to the northern States.

Now, Mr. President, I propose to notice some of the circumstances attending the passage of the act in question. The first Nebraska bill (differing from that afterwards passed) was reported to the Senate on the 4th January.

On the 16th of the same month, Mr. Dixon, of Kentucky, moved an amendment proposing to repeal the Missouri prohibition. There was no such provision, or anything equivalent to it, in the bill. On the next day, the Senator from Massachusetts [Mr. SUMNER] offered his amendment substantially to reenact the prohibition. I was at that time confined to my room, but I remember very well seeing a document, not exactly the same I have in my hand; I think it had more signatures to it than are here appended. This pamphlet is dated January the 19th. The proposition to organize the two Territories was reported as a substitute for the bill, on the 23d of January, and consequently this paper could not have had reference to it; but the subject was before Congress. It was known that a large number of the members of the two Houses would not consent to vote for a proposition containing the prohibition of slavery, whatever they might

otherwise be willing to do. This document, which was evidently gotten up for agitation in advance, purports to be signed by "S. P. Chase, Senator from Ohio; Charles Sumner, Senator from Massachusetts; J. R. Giddings and Edward Wade, Representatives from Ohio; Gerritt Smith, Representative from New York; Alexander De Witt, Representative from Massachusetts;" in which they say:

"We arraign the bill as a gross violation of a sacred pledge; as a criminal betrayal of precious rights; as part and parcel of an atrocious plot to exclude from a vast unoccupied region, immigrants from the Old World, and free laborers from our own States, and convert it into a dreary region of despotism, inhabited by masters and slaves."

Such is the language employed with respect to the bill when it contained no provision on the subject, leaving the Missouri prohibition unrepelled, which, if it had any force, excluded slavery. But the object was to get up the political agitation of the slavery question. I need not tell Senators here what was the result of it. If any of them have forgotten it, let them read the Journals, and see how the memorials came pouring in upon us during the pendency of the bill; some of which were written before the substitute was reported.

The address invites the people to take their maps, and see how extensive and valuable the country, and how great the enormity of excluding foreigners and northern laborers "from the rich lands and large territory" embraced by the bill; and proceeds:

"It is hoped, doubtless, by compelling the commerce and the whole travel between the East and the West to pass for hundreds of miles through a slaveholding region in the heart of the continent, and by the influence of a territorial government controlled by the slave power, to extinguish freedom and establish slavery in the States and Territories of the Pacific, and thus permanently subjugate the whole country to the yoke of a slaveholding despotism."

The note appended shows that the signers had not, at the time of the first publication, any knowledge of any other proposition on the subject of slavery than those offered by Mr. Dixon, then a Senator from Kentucky, and the Senator from Massachusetts. The note states that the Nebraska bill was promptly printed, and after remaining some time here amendments were reported, which proposed two territorial governments; to strike out the clerical errors before referred to, and insert elsewhere in the bill a clause excepting from the laws of the United States extended over the territory "the Missouri prohibition." Some other names had appeared in the first edition, and we find here an apology for their non-appearance in the second:

"So far as other signatures than those of the independent Democrats in Congress have been printed in connection with the foregoing appeal, it has been through *mistake*. The independent Democrats represent the only *powerful political organization* fully committed against the extension and nationalization of slavery, and, therefore, though they trust that there are many in both Houses who will with them oppose the repeal of the Missouri prohibition, they yet thought it best that an appeal to the people of the country, setting forth their reasons for opposition, and their determination to raise a new standard of liberty and Democracy, should *let the beaten down* in the impending struggle, should bear only their own signatures."

I understand from this note that the names of Senators and Representatives had been subscribed

to the first edition without their consent "through mistake," and, they being unwilling to be committed to an undertaking of doubtful success, the six "independent Democrats" take upon themselves the whole responsibility of renewing the political agitation on the subject of slavery by this proclamation of a political tournament—a struggle for supremacy by sectional organization.

You will remember, sir, the debate in both Houses of Congress, and the effect on the public mind. Almost the instant it became probable that the bill would be passed by the House of Representatives, the first aid society that I ever heard of was formed here in Washington. One of the members of the House of Representatives from Massachusetts, (Mr. Goodrich,) was the president of the society, and another from Indiana, (Mr. Mace,) the secretary. It is now pretended that this, and other such societies, were organized for the purpose of purchasing tickets by wholesale and selling them by retail, at cost, to the emigrants who desired to go to Kansas; but that of which I speak was organized here by politicians, with a view evidently to efficiency in the struggle for political supremacy.

The aid society incorporated in Massachusetts declare that their object is "to determine in the right way the institutions of unsettled Territories in less time than has been required in Congress." I quote from their circular, part of which was read by the honorable Senator from Tennessee, [Mr. JONES.]

The same society issued an address to the people of Missouri in September last, professing to explain the motives and purposes of the organization, the substance of which appears to be that—"Thousands of emigrants were attracted by the soil and climate of Kansas, and the society was organized for the purpose of enabling them to go conveniently and cheaply, to procure tickets at wholesale, and sell them to emigrants at retail at cost, and furnish facilities to men who *mean* to live in a free State." These facilities, you will observe, cannot be the tickets, and must be something else;—probably it was a box of them that was arrested at Lexington, Missouri, very recently, marked "carpenters' tools."

But the emigrants were "attracted by soil and climate!" It is wonderful how sudden and exclusive became their affection for this Territory of Kansas. Nebraska had no attraction for them. Illinois, in the same latitude, had lost hers; and so had Indiana. Very suddenly, it would seem, thousands became captivated by a soil and climate of which not one in fifty had ever heard prior to the controversy here, in Congress, in 1854. This society, they say, was formed to enable these captivated emigrants to go "conveniently and cheaply!" We are told that these were among the very best inhabitants of Massachusetts. What was it that so suddenly came over that ancient Commonwealth, that she became anxious to export her best citizens, and that it was necessary to provide for them the means by which they could go "conveniently and cheaply?"

Sir, are the people of Massachusetts, or elsewhere in New England, of the high respectability of these emigrants, so incapable of taking care of

themselves, that they must have a society organized and incorporated to enable them to go "conveniently and cheaply," to procure tickets at wholesale and retail them at cost? An association organized in the latitude in which this conducts its operations, professing to have for its object the purchase of any commodity at wholesale, and retail at cost, is, I think, suspicious. They are not in that region so unthrifty as to engage in any such unprofitable trade. But they are to "furnish facilities to men who *mean* to live in a free State!"—a significant expression to be found in the concluding part of the address to the people of Missouri! Now, what "facilities" are these? Not tickets, certainly, sold to them cheaply—and no other aid is furnished to enable them to get to Kansas; they deny that they furnish them with any money. They say the emigrants bear all their own expenses, and all the society did was to furnish them with tickets.

The *facilities* are for service in Kansas, and adapted to the purpose of men who *mean* to live in a free State, that is, determined to make Kansas a free State at any cost.

Mr. Thayer, their secretary, in February last undertook to reply to the message of the President, and he winds up by saying that it was "a voluntary association *within the pale of law*," and therefore not to be reprobated. The honorable Senator from Massachusetts [Mr. Wilson] says "they have violated no law, human or divine." That depends on what we regard as divine law. The Senator from New Hampshire [Mr. Hale] says they were organized "in the northern States for the purpose of aiding emigrants to go there with the avowed purpose of making Kansas a free State, and that they had an undoubted right to do so;" and asks, "Did you see anything criminal? No, sir." I do not undertake to say that they have violated any statute, or are punishable as criminals under any law. The minority report justifies the organization on the same ground. It says "it is a lawfully associated effort." Yes, it is incorporated—"to advance the great object"—political supremacy—"by *lawful means*, it being permitted by the laws of the country."

The principle which is here announced is, that everything is right, everything is justifiable, everything is commendable, in the effort to achieve a political supremacy, which is not forbidden by positive law, or criminally punishable. Sir, it was said of the Pharisees, that they never were known to violate the *letter* of a precept, nor respect a principle of the moral law. Is there, then, no protection to persons and property, but that which is to be found in the statute-book? Is that the only standard of morals, the only rule of conduct for individuals, societies, or States? Mr. President, I have been taught to believe that there were obligations between members of society and States which did not depend upon any positive enactment. There is mischief in the opposite sentiment. It has been applied to the relations of these States, and it was very correctly remarked by my honorable friend from South Carolina, [Mr. Butler,] that what is true law, as announced by the Supreme Court, has been perverted to mischievous uses in the relations of these States

toward each other. I refer to the opinion of that court in the case of *Prigg vs. The Commonwealth of Pennsylvania*, in which it is asserted (and it is undoubtedly true) that these States, as independent nations, are not bound to protect the rights of the citizens of their co-States, in property found within their jurisdiction, except so far as the obligation is imposed by the Constitution. All else is a matter of comity, and it is, unhappily, too true, that there is less comity between the States of this Union than between the independent Powers of Europe.

The antagonism and hostility between the States and the people, engendered by the agitation of the slavery question, is aggravated by hostile legislation and the struggle for political power by a sectional party warring upon the institutions of one half the States of the Union.

There is now in force in Massachusetts a statute, founded on a construction of the obligation of that State, that "sticks in the bark" remarkably close—a labored effort to keep within the letter and evade the spirit of the Constitution, to which I shall hereafter advert in another connection. But before the passage of that act, a slave, escaping or taken by violence from his owner while sojourning or passing through that State, could not be arrested and restored to his owner, and if arrested would be discharged on *habeas corpus*, because the Constitution provides only for the rendition of fugitives who escape *into* one State from another. In Pennsylvania, some years ago, a female fugitive from another State gave birth to a child: the mother was returned, the child was held to be free; being born in the State was not escaping "*into*" it.

You will remember how common it was for the Legislatures of the free States to exert their ingenuity in legislating to defeat the purpose of the act of 1793 for the rendition of fugitives, refusing their prisons, and imposing penalties on their officers who undertook to execute the law, because they were not bound to do it by the Constitution.

I agree that, by law, they are not bound to provide for the restoration of any property in any case not embraced by the Constitution; but I cannot agree that we have no other obligations than those enjoined on us by the Constitution or the statute law, and which can be specifically executed by the process of a court. No; keeping within the letter of the Constitution will not justify hostile legislation by any State against sister States or their citizens; keeping within the *pale of the law*, furnishes no justification to individuals or organized societies for offensive aggression, nor exempts them from moral responsibility for the known consequences of their voluntary acts.

Now, let me inquire how does it happen that the aid societies direct all their efforts to the colonization of Kansas? There are free States, and several Territories in which slavery is prohibited, to which emigrants who desire to live in a free State might go unarmed. Mr. Thayer, in the circular of February last, says that "the repeal of the Missouri compromise made Kansas the best field for the operations of the company;"

doubtless because it was the only debatable ground.

South of $36^{\circ} 30'$ is the cotton region, where slave labor may be profitably employed, and the tendency of emigration from the southern States is in that direction. Hence it is, that the States south of that parallel have been settled most generally by slaveholders. There, soil and climate settle the question. There is an inducement for them to go, and they go as readily as the emigrants from any other portion of the Union; but in the latitude above that and below 41° is the debatable ground. That is the latitude of middle States—Virginia, Maryland, and Kentucky. The emigration from these States is small. Its tendency generally is southward; but few who emigrate with slaves go directly west. The inducements in point of soil are only those portions which will produce hemp and tobacco. It was, therefore, possible that slaves might have been introduced into Kansas for that purpose; but slave population was excluded from Nebraska by the climate, and therefore, Nebraska, the twin sister of Kansas, had no attractions for these emigrants from New England; not a man of them wants to go there, because it serves no purpose in excluding the southern people, who could not be induced to go there; but Kansas is the only spot left to them in which there is any climate and soil adapted to any culture in which slave labor can be profitably employed, and for that reason, it was the only field “for the operations” of the emigrant aid society.

Is it not manifest, then, that these societies are political organizations, under the control of a sectional party, to effect, by associated capital, what they failed to accomplish by the legislation of Congress? Is it not a substitute for the law? Is it not intended to do the very thing which was attempted by the Missouri prohibition—to exclude the southern people from the Territory? It was not the necessary consequence of the Kansas act; but the organization and operations of the association are defended on the ground that the act tempted these people to do things which are wrong in themselves; but being tempted, and yielding to the temptation, they become entirely justifiable and commendable! I said yesterday, and now repeat, that I will not place the defense of my constituents on any such ground.

Had the emigrant aid society forborne, Kansas would be more apt to be a free State than now. As I have said, the emigration from the States in the same latitude has a general tendency to the South; but the slaveholder emigrant moves slowly, and necessarily so. He has something to take care of, and to take with him; and therefore, in any competition, according to the ordinary laws of emigration, he would be outdone. Those who need to be shipped off from the State to which they belong, by an organized, incorporated association, have little or nothing to carry with them, and can go easily. They therefore, in that latitude, would in all likelihood have found themselves largely in the majority, when they came to organize the government. A man who has slaves in the middle States, we all know, regards them as a part of his own family; attends

to their comforts and moves with them, and takes care of them. This requires time. He has property which he must dispose of; and before any number of such emigrants could accomplish that, thousands of those who have little, or nothing at all, might have settled the Territory of Kansas, and made a free State, without extraordinary effort. I believed so at the time of the passage of the Nebraska act, and so I said to the Senator from Massachusetts, [Mr. Everett,] because I thought the temptation was not strong enough, as the matter stood, to stimulate the people of the southern States into any extraordinary effort.

When the first aid society was formed here in Washington—where all these political agitations originate—I often had occasion to converse with some honorable members of the other House who voted against the Kansas-Nebraska act, upon the subject of that organization. I told them then that it would destroy their hope of making Kansas a free State, if anything could, for the language employed by the press in announcing the existence and objects of the organization was calculated to excite the people on the frontier. It was boasted that they intended to accomplish by that organization what they had before tried to do by law, that they would accomplish it, and that before any number of the slaveholders could get there they would have possession of the Territory. What was likely to be the effect of such declarations on the inhabitants of that frontier? They had been held in check by a barbarian wall erected by this Government, arresting the progress of settlement and civilization westward. The emigration, as all of us who have had any experience in the West know, crowds to the western boundary—to the furthest verge of the territory open to settlement the pioneer class of population will go. During the year before, when the Nebraska bill was pending in Congress, letters from almost every quarter were addressed to me, as a citizen of Missouri supposed to know something about Kansas, making inquiries about the country; and when they were informed that in all likelihood it would be opened to settlement, they rushed in that direction. The consequence was that, before the Territory was organized, the whole frontier was thronged with persons anxious to settle in Kansas. They were not able to go into the Territory because the Indian intercourse laws prevented it. They planted themselves on the frontier; some of them rented a small piece of land for temporary occupation; and at the time of the announcement of the passage of the Kansas-Nebraska act, the line between Missouri and Kansas, I am informed, could be traced for miles by the fences. But these were not all slaveholders—they were people from Indiana, from Illinois, some from Connecticut, and almost every State in the Union, thronging that frontier waiting the opening of Kansas to settlement. When it was announced that a new appliance had been resorted to for the purpose of getting possession of the Territory, even those people who were themselves, many of them, in principle opposed to slavery, became indignant, and afterwards coöperated with pro-slavery men.

These movements in the North excited appre-

hensions in the minds of the people of western Missouri for the security of their property, and certainly there was reason for it. I am not now upon the question, what did the society intend, but how were their resources, operations, and purposes represented by the press in their interest, and understood in Missouri? There were some in western Missouri who remembered how little their rights were respected by the North in the memorable struggle of 1820. (Some of them—the descendants of Daniel Boone—are now residing in Missouri, within six hundred yards of the Kansas boundary.) They believed that the movement was directed immediately against them, and I have no doubt they were greatly exasperated. No question that some of them were betrayed into violence of language, and, perhaps, irregularity of conduct.

The apprehensions to which I have referred were not at all allayed by the action of the Governor appointed for that Territory. He chose to remain at home until October, though he received his appointment on the 29th of June. In the mean time emigrants passed over, and some of them in no pleasant mood, in consequence of threats uttered against them. I have stated what the condition of that frontier was. As soon as it was known that Kansas was open, they rushed over. I think that was some time in the latter part of July or August. They went in different directions, and made their "locations," as they call them; but they left crops on the Missouri side of the line, or in the States from which they had come, as stated by the honorable Senator from Illinois [Mr. Douglas] the other day. Having made their locations, they worked as long as they could during that fall. They were at the election in November; and instead of its turning out to be, as the minority report represents, that a majority of the settlers in the Territory were, at that time, free-State men, there were but three hundred and twenty-seven of them out of upwards of two thousand voters, making an allowance for what they allege to have been Missouri votes. The number of votes cast were two thousand eight hundred and twenty three, of which there were—for John W. Whitfield, two thousand two hundred and fifty-eight, for J. A. Whitfield, two hundred and forty-eight, (which were probably intended for John W.,) and for all others, three hundred and twenty-seven. A vote of two thousand two hundred and fifty-eight against three hundred and twenty-seven may be regarded as decisive of the question of which party had the majority there.

Most of the emigrants were without houses or shelter for themselves or families in Kansas: some went over to Missouri, and others to their old homes in Illinois and Iowa, and other western States, to spend the winter. They were not all Missourians, or pro-slavery men, but settlers in Kansas intending to return with their families in the spring. During their absence, Governor Reeder found it convenient in January to order a census to be taken in February, when he must have known that a large number, if not a majority, of the voters could not be present.

You reside in the West, Mr. President; you

have a knowledge of the prairie country, and can estimate the difficulty of taking a census in the prairies in the month of January or February, and you know how little those at a distance are likely to hear of it; but it was taken in the absence of a large number of those who ought to have been enumerated, and the returns have figured largely in this debate.

The time appointed for the election of members of the Legislature was the 30th of March. The proclamation of the Governor giving notice of the election was issued on the 8th of that month. The first intelligence of the time appointed was received at St. Louis from New York or Boston, and was transmitted thence to western Missouri. I have no charges to make, but there are some circumstances connected with the arrangements for the election that are not to be overlooked. Ordinarily, the navigation of the Missouri opens before the middle of March; of the Ohio, earlier. Emigrants generally prefer to travel by water—indeed, at that season they could not well do so by land. Now, the fall election exhibited a large majority of acknowledged legal voters against the free-State colonists. It was necessary, therefore, to reinforce them, and the measures of the Governor seem to have been adapted to that end. The census was taken, and the election ordered, while most of the pro-slavery voters were absent; and it so happens that the emigrant aid society had notice of the election, and a very large number of their colonists were far on their way towards Kansas before it was known in western Missouri that the day of election had been appointed; but it did become known probably sooner than intended to the settlers who had wintered in Illinois, Indiana, and Missouri. They immediately exerted themselves to get to Kansas in time for the election. The consequence was, that the boats ascending the Missouri were crowded with emigrants, not from Missouri, but most of them from States far east. I send to the Secretary, and ask him to read from the report of the speech of Mr. OLIVER, of the House of Representatives, who was a passenger on one of the boats, the statement which I have marked.

The Secretary read as follows:

"And here, sir, let me state a fact which fell within my own observation. I left St. Louis on the 10th or 11th of March in that year, and the boat upon which I went up the Missouri river was literally crowded with passengers, nearly all of whom I found to be persons from the free States, and traveling under the patronage and auspices of the emigrant aid society. Many of their trunks were labeled, as I noticed, with cards having upon them the name of Thayer, the agent of the society at St. Louis. I conversed with many of those persons on the way up the river. I asked them where they were going, and the general reply was, to Kansas. I spoke of its being quite early for emigration, because it was the month of March, and very inclement; there fell a snow seven or eight inches in depth before I reached my home. I asked them why they had started out so early in the spring, while the weather was so unpleasant? The answer generally was, that they desired to reach Kansas at the earliest possible moment, and particularly to be there on the 30th day of March, for the purpose, as they said, of voting for members of the Territorial Legislature. Nearly all of the boats that went up the Missouri river early that spring were crowded with passengers from the free States, traveling under the auspices of this emigrant aid society.

"Well, sir, the election took place on the 30th of March, 1855; and it is a well known fact, susceptible of the clearest proof, were it necessary, that hundreds of those

emigrants, in less than one week after the election was over, were seen returning, as they said, to their homes in the East on steamboats and by land, saying that they had fulfilled their obligations to those under whose auspices they had gone there; that they had seen the Territory; that they did not like the appearance of it; and that they thought they could be much more happy at their old homes in the East than in the Territory. In proof of the assertion that these emigrants were mere adventurers, I beg to state the fact, that there were not more than eight or ten females to two or three loaded mules in that emigration, and that their traveling equipages consisted, in the main, of hand-sacks and small trunks. Some of them had guns, and nearly all of them side-arms and other weapons of offense and defense."

Mr. GEYER. Now, Mr. President, we account for a small part of the increase of population; there were other additions from the same quarter. When they arrived in the upper part of the river, it of course became known that they were going into Kansas for the purpose of voting at the election, and that they were not *bona fide* emigrants; but, in addition to that, I have it on good authority, that intelligence was received on the Missouri side of the line, that those who had wintered in that State would not be allowed to vote.

You will remember that there had been organized what was called the Kansas legion, to which the attention of the Senate was called in the majority report, and in the speech of the Senator from Illinois, [Mr. DOUGLAS.] That Kansas legion, it was understood, had determined to prevent those who were *bona fide* emigrants, and who, compelled by the inclemency of the season, had sought shelter in Missouri during the winter, or at their homes in Indiana or Illinois, from voting. They resolved that they would vote, went into the Territory for that purpose, and I suppose did vote, as they lawfully might. There were others who went from Missouri, (not all Missourians, however,) who were not entitled to vote, and did not intend to vote, unless others who entered Kansas about the same time, no better entitled, were allowed to do so. There was much excitement and great disorder in the neighborhood of the polls, and perhaps some illegal voting on both sides; but many who went from Missouri did not vote. I have it, on the authority of a gentleman who was at one of the precincts, that an entire company, as it is called, never went to the polls at all; but watched another company from the East, and told them that, if they had a right to vote, those from Missouri had the same right, and would exercise it; and neither party voted.

The minority report passes over the period from the first settlement of the Territory down to the election in 1855, on the 30th of March, and gives this account of it:

"On the day of election, large bodies of armed men from the State of Missouri appeared at the polls in most of the districts, and by most violent and tumultuous carriage and demeanor overawed the defenseless inhabitants, and by their own votes elected a large majority of the members of both Houses of said Assembly."

That is a sweeping allegation, and requires proof. We have the declaration of the honorable author of that report that there was no evidence before the committee of any such fact. They had no power, he said, to send for persons and papers. Then why not ask for it? Had it not

been announced here over and over again that there were, under the eaves of this Capitol and within its walls, the missionaries who had been sent out by the chairman of the Kansas executive committee and committee of safety (so-called) on a mission of agitation in the States. They were about this Capitol, ready to be made witnesses, and to receive their pay from the Treasury. Is it not most extraordinary that a report should be made involving the character of our citizens without a particle of evidence? It is very true, that after the report was made there came the executive minutes from Kansas, which have since been printed; but the author of the report had not even that to give color to the charge.

The honorable Senator from Massachusetts made the charge first, and he read from General Pomeroy's memorial, giving an account of the election at the several precincts; and that was recognized and indorsed as conclusive proof by the honorable Senator from Illinois. [Mr. TRUMBULL.] We have the unsworn testimony, then, of General Pomeroy, who is the agent of the emigrant aid society, and one of those who are now on a mission of agitation. I do not question his veracity as to any fact he may state on his personal knowledge, but he must have told what is stated in that memorial on hearsay; for, with all his properties, he has not the power of ubiquity. He could not be at all the polls in Kansas, and testify of his own knowledge what occurred there; and I have a right to demand higher and more reliable evidence to support an accusation so gravely made in this high place.

The honorable Senator from Iowa [Mr. HARRIS] followed; and here I must beg leave to say that I heard with amazement a most extraordinary declaration which I quote from his published speech. He said:

"I do not propose to enter into a general review of all these facts: but that large bodies of men from an adjoining State did enter Kansas for the avowed purposes of controlling her elections, and by false swearing in some districts, and by intimidation and force in others, (with guns and knives, and revolvers, driving away the officers of elections and free-State voters when necessary for that purpose,) did deposit votes in sufficient numbers to determine the character of her first Legislature."

"The war, the arson, the carnage and bloodshed have been occasioned by a persevering effort on the part of armed bands of men residing out of the Territory to compel the people to acquiesce in the consummation of this high-handed outrage on their rights as freemen, is a part of the history of the country which no amount of learning, no strength of logic, and no fire of eloquence can ever obliterate."

Anticipating an inquiry for his authority he says:

"I respond by inquiring for the authority of the world's conviction that Louis Napoleon was elevated to the throne of his imperial uncle by force and fraud?"

It appears, then, in the opinion of that Senator, that because, under ordinary circumstances, we receive, and sometimes credit, intelligence of events in Europe upon the authority of public journals, newspaper articles are not only competent evidence, but conclusive proof of a charge against an entire community of force, fraud, and perjury!

But the honorable Senator does not stop there. He says he has been in western Missouri, and

conversed with the people; and they will not deny the leading facts stated; and "if these facts are doubted, or called in question by their friends on this floor, it will not be received by them as a compliment." Does he mean to say that they admit the perpetration of force, fraud, and perjury? Does he mean to say he has ever heard any man of any respectability in Missouri, or Iowa, assert that he has knowledge of the facts charged? Mr. President, the people of that country—as in every other new State I believe—are excitable, but they are not prone to deeds of moral turpitude. Neither the people of Missouri nor Iowa can be tempted to the commission of perjury; they may be provoked to acts of violence, but not crimes involving moral turpitude.

Mr. HARLAN. Will the honorable Senator allow me to interrupt him?

Mr. GEYER. Certainly.

Mr. HARLAN. Immediately preceding my arrival here, I conversed with citizens living in and around Council Bluffs, in Iowa, and, among others, I remember, distinctly, conversing with Mr. Jollie, who represented himself as being one of the officers in Kansas at the time when this election is said to have taken place. He said that he himself administered the oath to numbers of persons whom he personally knew to be citizens of Missouri, who went so far as to swear that they were then residents of the Territory, and expected to live and die in the Territory. Yet they, then, to his certain personal knowledge, returned to Missouri before night.

Mr. GEYER. Mr. President, if he administered any such oath it was not under any law of Kansas. Persons were not called upon to swear "that they expected to live and die in Kansas." But if the fact be that they swore that they were residents of Kansas, does it follow that they committed perjury? Did nobody vote who went there at the same time from other quarters as residents? Is the fact, that they went back to Missouri, even if they had ever been residents there, evidence that they committed perjury, when they said that their residence was then in Kansas? As I have said, the fact is known—it cannot be successfully contradicted—that many went from Kansas and wintered in Missouri, and in other States, and well they might. They had no shelter in Kansas to protect them from the storms of winter. It was the policy of the Governor to order the election at an inclement season of the year. Some of the emigrant aid voters went to Missouri to stay during the winter. The fact that a man crossed the line for shelter after the election was over is no proof of perjury. I did hope that the charge would be recanted; I did suppose that, as a Christian gentleman, the honorable Senator from Iowa would retract the charge, but he adheres to it. Who is Mr. Jollie who invented and administered the oath? Where is he? What is he, that an honorable Senator ventures on his authority to make so grave a charge against his countrymen and neighbors?

Mr. President, the deceptions that have been practiced in regard to this subject are enormous. Since this debate was commenced, I saw an article in a newspaper, which I cut out, and intended to

make use of, wherein a citizen of Iowa, (as he said he was, but a most unfortunate and greatly injured pro-slavery man, according to the account given by himself,) said that he had a house and a piece of land near Topeka, and that the Abolitionists from Topeka turned him and his family out of the house, tore it down, and stole the logs. [Laughter.] When I first saw it, I thought I could make something out of that; but I took the precaution, first, to inquire of persons who have been on the ground, and who knew the men, and then I believe I ascertained the true state of facts. I found that this very man was himself an Abolitionist, that he went into partnership with a brother Abolitionist, that they built their house together, that he got his family into it, occupied it, and would not let the other come in. He kept within "the pale of the law." There was no process by which he could be expelled; there was no law by which he could be punished. Then his brother Abolitionists of Topeka went out to the spot, turned him out, and took possession of the logs, and gave them to the other partner in the concern.

This shows how unreliable are newspaper articles as evidences of occurrences in Kansas. Some time since a proclamation was issued by the President in consequence of dispatches received by him from J. H. Lane, (chairman of the executive committee,) now claiming to be a Senator, and C. Robinson, (chairman of the committee of safety,) now claiming to be Governor of Kansas, informing the President that "an overwhelming force was organized upon the border for the avowed purpose of invading Kansas, and butchering the unoffending free-State citizens." It happened that, on the very day the Senator from Massachusetts was delivering his speech, the Pioneer Association of Jackson county assembled at Independence to adopt a constitution. They had been informed of the proclamation, and of the information upon which it was issued, but had not learned by whom furnished. The Senator from Massachusetts had said that the proclamation would be received with joy by the people of western Missouri, because it was aimed at those innocent individuals, Robinson, Lane, and their associates. A mass meeting was immediately held at Independence, and it was resolved (I have the resolutions before me) that the information of a contemplated invasion from Missouri, by whomsoever communicated, was untrue; that there was no organization for such purpose existing or contemplated. The persons whose names appear in the proceedings, as well as the officers who signed them, are men who have position in society. I have the proceedings of another mass meeting held at Lexington, Missouri, at which an address to the President and people was adopted, in which the dispatch of those two high functionaries of Kansas is quoted and pronounced an unmitigated falsehood. The meeting declares that west of Jefferson there is but one piece of artillery, (not in the national depot of arms,) and that piece is one of those captured by Colonel Doniphan's regiment, and was presented by the State of Missouri as a compliment to the Jackson county company. All the

artillery captured by Colonel Doniphan's regiment, it will be remembered, was relinquished by the General Government to the State of Missouri.

Here, then, we have more evidence of the questionable character of information furnished by the free-State men of Kansas.

Sir, I have accounted for the large accession of population in March, 1855. It was composed of people who belonged to Kansas, and had wintered in Missouri, Indiana, Illinois, and Ohio. They came back earlier than they otherwise would have done in consequence of the order of an election at that extraordinary season. Some of them were obliged to go back to the State of Missouri after the election, and seek the hospitality of the people of that State; so that there is nothing in the fact of their going over, or coming back, to justify the allegation that they were not legal voters in Kansas.

The Governor approved of the election of ten councilmen and sixteen representatives. He rejected nearly all the votes in one district, and returned a Mr. Conway, and a Mr. McCarty, of whose existence the Governor had serious doubts. He rejected two councilmen and nine representatives. A new election was ordered to be held in May. The Governor left the Territory on the 17th of April to visit his family, and did not return until about the 23d of June. During his absence he appears to have discovered, for the first time, that there had been any serious disturbance in Kansas. In a speech, delivered at Easton, Pennsylvania, he said, "It was too true that Kansas had been invaded, conquered, subjugated, by armed forces from beyond the borders." It is somewhat remarkable that the Governor made this discovery of important events in Kansas at a distance of a thousand miles from his post, about the time that he discovered, also, that the President had received information of his interest in the Pawnee speculation, and he perceived at once what was to be his fate.

The President was charged by the Senator from New Hampshire [Mr. HALE] with gross neglect of duty because he did not instantly, upon the publication of Governor Reeder's speech, interfere by sending an armed force into Kansas. But, as the Governor had never made an official report of facts stated in the speech, the President might be supposed to understand his duty better than to interfere upon the authority alone of Governor Reeder's speech, if he ever read it.

It is a significant fact, that Governor Reeder would not take the responsibility of reporting to the President, on his official oath, what he stated in his speech, or anything like it. He either betrayed his trust, or his statement at Easton is untrue. If he was faithful to his duty and the obligation of his official oath, he reported officially all invasions of Kansas during his administration. But I infer that he obtained his information of the invasion of which he speaks from the source which furnishes an abundant supply of similar information located in New York and Boston.

The power of the Governor is unquestioned to regulate the first election, and to declare duly elected the persons having the highest number

of legal votes. He did adopt regulations for the election; he published them, and they were for Kansas the law, under the authority of the organic act, and the election was decided in pursuance of it. Yet we are told, by the honorable Senator from Vermont and others, that the people of Kansas are not bound by it. What, sir! Have the people of Kansas an appeal on the question of the legality of an election—to hold a controversy with arms in their hands to settle the election and returns of members of their General Assembly? It was the act of the constituted authority of Kansas, binding upon the people of Kansas, when those certificates were granted. It was decided according to law, and under the authority of law, and just as obligatory as if it had been decided by Congress.

I shall not enter at large into the controversy about the power of each branch of the Legislature to judge of the election and returns of its members. It is enough to say that, at the election ordered by Governor Reeder, two members of the Council, and six of the House of Representatives, were elected in place of those rejected by him. The other three were the same who had been elected, and took their seats in the General Assembly, as having been elected at both elections. This left undisputed ten councilmen and nineteen representatives, with the undoubted authority as a Legislature; and if anybody had a right to judge of the elections and returns, under the certificate of the Governor, it was in them. But suppose it to be a doubtful question: is it to be settled by an appeal to mob law? Neither the regularity of the election, the sufficiency of the returns, or the qualifications of members, is an open question in determining the validity of a law enacted by them, in any tribunal. And are men to turn out and resist the execution of laws, because they suppose that they were passed by the votes of members who are disqualified, were elected by illegal votes, or obtained their seats by force, or fraud? Suppose we should pass a bill in the Senate, by a majority of one, and that vote given by the honorable Senator from Illinois, [Mr. TRUMBULL,] whose seat has been contested. There is a Senator near me who believes he was not entitled to a seat. Now, if the bill supposed, is passed by the other House and approved by the President, its validity cannot be made to depend upon the validity of the election of the Senator from Illinois; yet the question would be open in that case, as much as if the bill had been carried by the votes of any number of members where seats were contested; and if individuals and mass meetings may decide that question, their right to resist the law would not depend upon the correctness of the decision. If resistance to a law is justifiable, where it is passed by the vote of any number of members of the Legislature who are not entitled to their seats, and if those who resist are the judges of the validity of the elections, they are justified, whether they decide right or wrong.

The attempt at revolution in Kansas is attempted to be justified, or excused, because there have been some laws passed by the Legislature alleged to be of a very objectionable character.

The honorable Senator from Vermont quotes one of these acts, and complains against it because, as he says, it assumes that slavery exists by law, when it did not. Whether it does or not, however, is a grave question of constitutional law. If I am right in the opinion that the Missouri prohibition was unconstitutional, slavery does exist in Kansas—a question which is not to be referred to mass meetings or Topeka conventions. Besides, the law referred to is itself a recognition of slavery, and that is all-sufficient. The laws of Virginia and other slave States do no more. Gentlemen say that slavery cannot exist anywhere except by authority of law. Agreed; but there never was a law in any of the States tolerating slavery, to authorize any person to reduce another to slavery. All that there is in the legislation on the subject is to be found in acts recognizing the authority of the owner and securing to him the possession of the slave as property. Slavery exists by law wherever the law recognizes its existence.

I have before me some curiosities in legislation, which it would be well enough for gentlemen who are disposed to indulge in severe criticism of the laws of Kansas, to find an apology for rebellion, to look at. The first act to which I will call their attention is that of Vermont.* The marginal note of the third section is in these words:

“Two justices empowered to examine strangers on complaint of overseers of poor.”

It appears in the body of the section that, if the result of the examination is not satisfactory, the constable of the town is to transport such stranger out of it; and further, by another section:

“If any person so removed shall return, to reside within the town, without permission of the selectmen, he or she shall be whipped not exceeding ten stripes, at the discretion of the justice before whom the trial shall be had.”

Mr. BUTLER. Does that apply to white people?

Mr. GEYER. Yes, sir; white or black, if they are strangers; [laughter:] that is to say, if a citizen of any other State, white or black, male or female, should under that law, go into Vermont, they were liable to be ordered out of it by the overseer of the poor; and if they came back after being ordered out, they were liable to be whipped on their return. But Vermont is not singular.

Mr. BUTLER. I wish my friend would incorporate into his speech an old law of Massachusetts, which I have found. I would remind my friend of an old league between the four New England States, made while they were colonies, expressly repudiating trial by jury for the reclamation of fugitive slaves. They called them “slaves” too, or rather “fugitive servants,” and they say that they shall be delivered upon the certificate of one magistrate.†

Mr. GEYER. I am not objecting to these laws. They are police laws, and I leave the people of those States to interpret them; but while we are looking for curiosities of legislation, gentlemen may as well look at home. Here is another from the State of New York:

“Any householder entertaining a stranger for fifteen days without giving notice, to forfeit five dollars. [Laughter.] If the justices think proper, they may cause the stranger to be removed out of the town.”

And by another section it is provided that persons removed and returning, shall be retransported and may be whipped; “if a man, not exceeding thirty-nine lashes, and if a woman, not exceeding twenty-five lashes; and so as often as such person shall return after such transportation.”* [Laughter.] Such is the entertainment provided for strangers according to the law of New York.

I have before referred to one specimen of legislation in Massachusetts. I now turn to the last effort of the Legislature, to fulfill the obligation of that State, under the Constitution, to return fugitive slaves.

By the personal liberty bill, so called, passed in 1855, fugitive slaves arrested may be admitted to bail on *habeas corpus*, and are entitled to a trial by jury. The claimant is required to state, in writing, the facts on which he relies with “precision and certainty.”

“And no confessions, admissions, or declarations, of the alleged fugitive against himself, shall be given in evidence. Upon every question of fact involved in the issue, the burden of proof shall be on the claimant, and the facts alleged and necessary to be established must be proved by the testimony of at least two credible witnesses, or other legal evidence equivalent thereto, and by the rules of evidence known and secured by the common law; and no *ex parte* deposition or affidavit shall be received in proof in behalf of the claimant, and no presumption shall arise in favor of the claimant from any proof that the alleged fugitive or any of his ancestors had been actually held as a slave, without proof that such holding was legal.”

The obvious design of this act is to defeat the execution of the fugitive slave law. It not only undertakes to establish rules of pleading and evidence, but substantially provides that no proof possible shall be available to the claimant, by requiring proof that the alleged fugitive was lawfully held to slavery according to the law of Massachusetts; that is the obvious intention of the last clause of the part I have quoted.

The next section provides that any person who shall remove, or attempt to remove, any person “who is not ‘held to service or labor’ by the ‘party’ making ‘claim,’ or who has not ‘escaped’ from the ‘party’ making ‘claim,’ or whose ‘service or labor’ is not ‘due’ to the ‘party’ making ‘claim’ within the meaning of those words in the Constitution of the United States, on the pretense that such person is so held, or has so escaped, or that his ‘service or labor’ is so ‘due,’ or with the intent to subject him to such ‘service or labor,’ he shall be punished by a fine not less than one thousand nor more than five thousand dollars, and by imprisonment in the State prison not less than one nor more than five years.”†

You will observe, Mr. President, that there are frequent quotations of words and phrases from the Constitution, and marked as such. The Constitution provides that—

“No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.”

* Laws of Vermont, 1808, vol. 1, pp. 384 and 402.

† See Appendix, No. 6.

* Laws of New York, edition 1802, pp. 563-9.

† See Appendix, No. 6.

The clause of the Massachusetts act last quoted is a manifest attempt to keep within the letter, and at the same time defeat the intent of the Constitution and of the act of Congress passed in pursuance of it. Every person who attempts to arrest a fugitive, or assist another, must be prepared at all times to prove that the claimant is the owner, and that the escape was from him, and not from his bailee or agent, at the hazard of being punished as a felon, and under the eighth section paying heavy damages to the fugitive, to be recovered in a civil action.

By the same act all officers of the State are prohibited, under heavy penalties, from issuing process in fugitive slave cases, or assisting in the arrest of a fugitive. Any person acting as counsel or attorney for any claimant of an alleged fugitive under the act of Congress, is to be disqualified and prohibited from practicing in any court of the State.

This legislation, so obviously designed, so cunningly contrived to defeat a compromise of the Constitution, is approved and sustained by Senators who are most loud in their complaints of the disregard of a legislative compromise by the constitutional repeal of an act of Congress, and who are now more consistently employed in justifying rebellion in Kansas on the ground that bad laws were enacted by the Legislature.

Now, Mr. President, I turn to the proceedings which resulted in a convention to form a constitution and State government for Kansas. While the Legislature was yet in session, measures were adopted to call meetings with a view to organization. Governor Robinson, in his late message, says that the first movement was in July. The first meeting was held at Lawrence, where it was resolved to hold a convention to consider and determine upon all subjects of public interest, and especially the speedy formation of a State constitution. The reason is stated in a preamble to be that the Territory always had been, and then was, without any law-making power.

On the 5th of September, the Big Springs convention was held, and adopted resolutions confessedly insurrectionary, nominated Governor Reeder as the candidate for Delegate to Congress, and fixed the day of election after that appointed by law. The first Topeka convention was held on the 19th and 20th of September, and resolved to hold another convention, to be chosen on the second Tuesday of October, (the same day appointed for the election of Delegate by the Big Springs convention.) The convention thus called, was chosen, and assembled at Topeka on the fourth Tuesday of October, and formed what is called a State constitution.

It has been conceded here, by the honorable Senator from Vermont, that, if the organization of the Kansas legion and the Big Springs convention have any connection with the meeting at Lawrence, or the conventions at Topeka, their proceedings furnish evidence of a design to displace the existing government, set up a new one, and maintain it by force of arms if necessary; but he argues that neither the Kansas legion nor the Big Springs convention is in any way connected with the proceedings in the other meetings

and conventions, and therefore he took no notice of them in the minority report.

The question has been very fully discussed by the Senator from Illinois, and I think he has shown very clearly, by reference to the proceedings at the several meetings and conventions, that they are connected together in a direct line, all having the same end in view. I propose only to invite the attention of the Senator from Vermont to a few facts, not unworthy of consideration, which he appears to have overlooked, and which tend to sustain the view of the subject taken by the Senator from Illinois.

By reference to the published documents it will be seen that the grand vice general of the Kansas legion organized the meeting at Lawrence, of which the grand quartermaster general of the same legion was secretary, and both these grand officers were members of both the conventions at Topeka. Colonel Warren was a member of the Big Springs convention. How many more of the members of that organization were active in the proceedings of the assemblages mentioned cannot be ascertained now, as their names have not been disclosed. The president of the constitutional convention, the assistant secretary, and fifteen or sixteen of the thirty-six members who signed the constitution, were members of the Big Springs convention. Several of these, and others of their associates at Big Springs, were in the first Topeka convention, which recognized its proceedings, and appointed the same day for holding the elections. The election for Delegate to Congress, and for the members of the constitutional convention, was held on the same day, conducted under the superintendence of the same persons, and Reeder, the nominee of the Big Springs convention, and the members of the constitutional convention, one half of whom were his associates at Big Springs, were elected by the same people; and Robinson, Governor elect, also a member of the last convention, recognizes the proceedings at Big Springs, and quotes a part of them in his message.

The whole proceedings, from beginning to end, show that the same spirit animated all the assemblages in succession; though that at Big Springs was more indiscreet than the others in disclosing the purpose to resist the laws to a bloody issue if they did not obtain a peaceful remedy by an appeal to the judiciary or Congress.

The fact that one half of the constitutional convention, or near it, was composed of members of the Big Springs convention—that Governor Reeder, who was present at that convention and participated in its proceedings, was their nominee for Delegate—that the first Topeka convention recognized their proceedings, in connection with those brought to the notice of the Senate by the honorable Senator from Illinois, ought to be regarded as conclusive against the position of the Senator from Vermont.

I find that, of the signers of the memorial purporting to be that of *bona fide* residents of Leavenworth county, Kansas Territory, praying the admission of Kansas into the Union, the first is James Redpath, who is the person, I presume, that signed the constitution as "reporter." He

was, I am credibly informed, a member of the late Republican convention at Pittsburg, claiming to be a delegate from the State of Missouri. I believe that he is a reporter sure enough, and, as I am informed, of some paper in the habit of publishing "poorbacks" as news from Kansas.

But the Senator from Vermont does not appear to be entirely satisfied that the meetings and conventions which he recognizes were peaceable assemblies, to petition for the redress of grievances. He takes some pains, both in the minority report and in his speech, to set forth and prove that grievances existed which justify revolution.

The first Topeka convention understood themselves to be engaged in a revolutionary movement, and they set forth a formidable number of grievances to justify it. Peaceable assemblies to petition for redress need no such manifesto as that issued at Topeka, and no such defense as has been made for the assemblies in Kansas.

The Kansas legion is a military organization, and that it was prepared for active service, was made manifest in the Wakarusa war. It was a party of armed men of that legion who forcibly rescued a prisoner from the lawful custody of the sheriff, swearing that they recognized no law, and relied only on their rifles; and when the Governor called the militia to enforce the laws, a large body of men armed with Sharpe's rifles was promptly embodied and ready for resistance, at Lawrence, and maintained their attitude of hostility until Governor Shannon, becoming apprehensive of a serious collision between the men assembled by his authority to execute the laws, and the men in arms to oppose them went to Lawrence and there entered into an engagement by which peace was restored.

Mr. President, the convention at the Big Springs recommended their friends to "organize and discipline volunteer companies, and the procurement and preparation of arms;" and thus far we have seen that their recommendation has been attended to. We know that military corps have been organized, and supplies of arms and munitions of war have been provided; we know that the chairmen of the executive committee and committees of safety have appointed missionaries of agitation, and sent them into the free States to recruit men and procure arms and munitions of war; we know that a shipment of arms has recently been made to Kansas. And now I will mention a few facts, indicating the determination of the friends of the movement in Kansas, in the free States, to carry out the recommendation of the Big Springs convention, and coöperate with them to the fullest extent proposed.

At the Republican convention recently held at Pittsburg, Mr. Mann (and alluding no doubt to the proclamation of the President) said:

"The first drop of human blood shed in Kansas by the authority of the United States will be the end of slavery, not only in this country but upon the globe."

Yes, sir, insurrection or no insurrection; even if armed insurgents are openly resisting the authority of the law, and it becomes necessary to subdue them by arms, it is said that the first Federal gun that shall be fired in Kansas, in the execution of the laws, shall be the death of

slavery everywhere. They have the means, they think.

Mr. BELL, of Tennessee. Who said that?

Mr. GEYER. Mr. Mann, at the convention at Pittsburg.

Mr. SEWARD. Abijah Mann, of New York. Mr. CRITTENDEN. It has been said here, I think.

Mr. SEWARD. I have not heard it said here.

Mr. GEYER. Here is something which is, I believe, of a later date. A large meeting was held at Worcester, Massachusetts, at which General Pomeroy, the agent, and Mr. Thayer, the secretary, of the Massachusetts or New England Emigrant Aid Society, were present, and addressed the people; the report of the proceedings was published in the Worcester Spy, of Saturday, 9th February, the concluding part of which I will read:

"Mr. Pomeroy's remarks were received with many demonstrations of applause, and at their conclusion a collection was taken up in aid of Kansas; about fifty dollars were contributed in cash, and written pledges given to the amount of \$150 more, which is only a beginning of what Worcester will and can do for the cause."

"At the close of Mr. Pomeroy's address, the president called upon Eli Thayer, Esq., to address the meeting, and Mr. T. responded in eloquent terms. He said he was a peace man, and his offer to furnish a thousand superior rifles, (Mr. Thayer is engaged in the manufacture of a newly invented rifle, said to be far superior to Sharpe's,) was based upon an earnest and sincere desire to prevent the shedding of blood. A large number of men were engaged in their manufacture in this city, and a portion of them would be completed in the coming week, but as it was desirable that some additional arms should be sent to the Territory at once, he proposed to pay for ten Sharpe's rifles at twenty-five dollars each, on condition that, during the coming week, other citizens of Worcester would subscribe enough to make up the number to one hundred rifles."

"Several gentlemen subscribed for a rifle, and sent their names to the chair; and before the audience left the hall, twenty-three rifles, equivalent to the sum of \$575, were subscribed for. Mr. Thayer's generous proposal was received with great applause, and a committee of three was appointed to solicit subscriptions for the requisite number. Of course they will find no difficulty in securing the material aid necessary."

Here, then, we find the agent in Kansas, and the secretary, both actively engaged in "the procurement and preparation of arms," as recommended by the Big Springs convention, and it seems that the secretary is himself engaged in the manufacture of "facilities" "superior to Sharpe's."

It appears that the missionaries have stirred up the people of Chicago, the city of the residence of the honorable chairman of the Committee on Territories, to activity in furnishing material aid in the same cause. In the Kansas Herald of Freedom, of a late date, I find, what I will now read, under the head "A NOBLE LETTER:"

"The editor of the Chicago Tribune writes us from that city, under date of February 15th, from which we make the following extract:

"CHICAGO, February 15, 1853.

"EDITOR HERALD OF FREEDOM: There is about two thousand dollars subscribed to help the free-State cause, which is placed in the hands of an executive committee, to be checked on by your committee of public safety, and other proper persons, not to purchase scrip, but to pay for munitions, necessities, &c., for the assistance of the free-State cause. We shall raise considerable more means, and when the spring opens you may look for a large number of emigrants, who will handle an ax or Sharpe's rifle, as the occasion may require."

"The whole western States are profoundly moved with indignation at the wrongs your people have sustained. Assistance will pour in next spring in abundance. 'Though the heavens fall, or the Union be rent in twain, Kansas shall not be cursed with slavery,' is the voice of the North. Be of good cheer, and prove faithful to the end. Your reward will surely come. Several of your people are with us, going from town to town as missionaries in a holy cause. They are doing great good."

"The Republicans have secured the organization of the House at Washington. Good will come of it."

"Very truly yours, EDS. TRIBUNE."

I have before me, also, some elegant extracts from the New York Tribune, and will read a part of a one, as a specimen:

"The people of Kansas, and the friends of freedom for Kansas, must continue to do what they have been doing ever since the passage of the Kansas Nebraska bill. Conforming to the principle of squatter sovereignty, on which that bill assumes to found itself, they must pour free settlers into Kansas, well armed with Sharpe's rifles, or other convenient weapons."

It then proceeds to appeal to young men of ardor and enthusiasm, and calls upon them to go to Kansas, and take part in the impending struggle for the sake of "glory and a quarter section." Thus we find the appeal of the insurgent convention to their friends to raise and organize troops, and procure and prepare arms, recognized and responded to, with a view to the contemplated issue.

Mr. President, the measures have been taken which are necessary to keep the peace in Kansas. If no violence is designed by either party, no one has a right to complain of those measures. If violence is designed, it is the duty of the President to maintain a force there, which shall keep them in check. This, I apprehend, is all that need be done. The laws are equal to the preservation of peace in that Territory.

But, sir, they demand admission into the Union, either now or at some distant day to be fixed by Congress. I will say now that I have no objection to the passage of a general law prescribing the terms on which new States formed out of the Territories may be admitted into the Union; but I am altogether disinclined to yield to demands, accompanied by threats, from revolutionists in Kansas. Nor am I disposed to allow them to occupy the immense territory which they claim as a State, and to come into the Union, with a population of less than twenty-five thousand, according to their own representation, on an equality with any State having one Representative in the other House. I cannot consent to it. To agree to that course is to settle the question by Congress yielding to the demands set up by an insurrectionary organization under the influence of the emigrant aid association. It is to surrender at once to that unquiet spirit of aggression which for more than forty years has warred upon the institutions of one half of the States of this Union; has sought to exclude their citizens from the common territory of the nation, and to annul even the compromises of the Constitution, which promise protection for their property, and secure to them a portion of their political power. I am unwilling to yield to that spirit. I do not apprehend any serious trouble.

I said, yesterday, that whenever agitators have succeeded in disturbing the peace of the country to an extent to create serious apprehensions of

danger, the great body of the people have proved themselves loyal to the Union; and I believe that, if the present agitation is continued, the people of this country will again rebuke the fomenters of discord, and maintain the supremacy of the Constitution and the laws.

I have spoken of the action of parties; but I desire it to be understood that, when I speak of the present organizations, I wish to distinguish conservative men, who act with the association called Republican, from the two wings of that party known as Abolitionists. I condemn no man for voting against the passage of the Kansas-Nebraska act. There are differences of opinion on that subject. There were such differences among conservative men at the time of its passage among the members of the House of Representatives: many of those who voted against the bill afterwards shared the fate of others who voted for it, because they were conservative. By the union of Abolitionists with a new organization called Know Nothings, every conservative member from Massachusetts was immolated. The same thing occurred in other States. What I mean to say to honorable gentlemen of the Republican party, who are not Abolitionists, is this—if they do not wish to be made responsible for the action of their associates, let them at once dissolve the connection, and seek a healthy organization which shall be national in its character, and manifest their fidelity to the Union by rallying to the support of the laws and the Constitution.

APPENDIX.

[No. 1.]

HOUSE OF REPRESENTATIVES, February 18, 1859.

The bill establishing a Territorial Government for Arkansas.

MR. TAYLOR, of New York, moved to insert a section providing that neither slavery nor involuntary servitude shall be introduced into the said Territory, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; and all children born of slaves within said Territory shall be free, but may be held to service until the age of twenty-five years.

The question was divided, and put on the first part of the clause down to the word "convicted," inclusive, and decided in the negative—70 to 71; the second clause was agreed to—75 to 73.

FRIDAY, February 19.—On a motion to commit the bill, with instructions to strike out the second clause of the amendment, and on the question there were—yeas 88, nays 88.

The question was decided in the affirmative by the vote of the Speaker. The votes of the free States were as follows:

	Yeas.	Nays.		Yeas.	Nays.
New Hampshire.....	1	4	New Jersey.....	2	4
Vermont.....	5	5	Pennsylvania.....	1	22
Massachusetts.....	4	15	Ohio.....	3	3
Rhode Island.....	2	2	Indiana.....	1	1
Connecticut.....	7	7	Illinois.....	1	—
New York.....	3	24	Total.....	15	83

Delaware voted, ay 1, no 1; all the votes of the other States were in the affirmative.

The committee reported back the bill amended agreeably to the instructions; and the question being taken to concur with the select committee, it passed in the affirmative. The free States voted as before, except that Massachusetts gave one less in the negative.

Mr. TAYLOR, of New York, then moved to amend by inserting the first clause of the former amendment; and it was determined in the negative—yeas 85, nays 90. The votes of the free States in the affirmative were the same as their negative votes on the question last preceding, except that the affirmative vote of New York was one less than the negative vote before.—*House Journal, second session, Fifteenth Congress*, pp. 283 to 294.

[No. 2.]

IN THE SENATE, March 2, 1820.

On motion of Mr. BARBOUR to amend the Missouri bill of the House to strike out from the fourth section of the bill the provisions prohibiting slavery or involuntary servitude in the contemplated State otherwise than in the punishment of crimes, as recommended by the committee of conference, it was agreed to—yeas 27, nays 15.

The free States voted as follows:

Yeas.	Nays.	Yeas.	Nays.
New Hampshire.... 1	1	New Jersey..... 2	—
Vermont..... 1	—	Pennsylvania..... 2	—
Massachusetts.... 2	—	Ohio..... 2	—
Rhode Island.... 1	1	Indiana..... 2	—
Connecticut..... 1	1	Illinois..... 2	—
New York..... 2	—		
		Total..... 5	15

Senate Journal, first session Sixteenth Congress, p. 201.

HOUSE OF REPRESENTATIVES, March 2, 1820.

On the question of concurrence with the Senate on the above amendment it passed in the affirmative—yeas 90, nays 87, the free States voting as follows:

Yeas.	Nays.	Yeas.	Nays.
New Hampshire.... 6	—	New Jersey..... 3	3
Vermont..... 6	—	Pennsylvania.... 2	21
Massachusetts.... 4	16	Ohio..... 6	—
Rhode Island.... 1	1	Indiana..... 1	—
Connecticut..... 2	4	Illinois..... 1	—
New York..... 2	22		
		Total..... 14	87

House Journal, p. 276.

[No. 3.]

HOUSE OF REPRESENTATIVES, December 13, 1820.

The House resumed the consideration of the resolution (reported by Mr. LOWMEYER) declaring the admission of the State of Missouri into the Union; and on the question, "Shall the resolution be engrossed and read a third time?" it was determined in the negative—yeas 79, nays 93; the free States voting as follows:

Yeas.	Nays.	Yeas.	Nays.
New Hampshire.... 6	—	New Jersey..... 2	4
Vermont..... 6	—	Pennsylvania.... 1	22
Massachusetts.... 1	18	Ohio..... 5	—
Rhode Island.... 1	1	Indiana..... 1	—
Connecticut..... 2	7	Illinois..... 1	—
New York..... 1	21		
		Total..... 5	92

Delaware gave one vote in the negative. The votes of Maine are included with Massachusetts.—*House Journal, second session Sixteenth Congress*, p. 70.

[No. 4.]

HOUSE OF REPRESENTATIVES, February 12, 1821.

The vote being taken on Mr. MALLORY'S amendment to the amendment of the select committee to the joint resolution of the Senate for the admission of Missouri, it was determined in the negative—yeas 61, nays 107. The votes of the free States were as follows:

Yeas.	Nays.	Yeas.	Nays.
New Hampshire.... 4	2	New Jersey..... 4	—
Vermont..... 6	—	Pennsylvania.... 15	6
Massachusetts.... 14	6	Ohio..... 2	3
Rhode Island.... 1	—	Indiana..... 1	—
Connecticut..... 4	3	Illinois..... 1	—
New York..... 15	9		
		Total..... 61	34

The vote of Maine is included with that of Massachusetts.—*House Journal, second session Sixteenth Congress*, p. 220.

[No. 5.]

HOUSE OF REPRESENTATIVES, February 23, 1821.

The joint resolution for the admission of Missouri upon a fundamental condition therein contained, as reported by Mr. CLAY from the joint committee, being under consideration on the question, "Shall the resolution be engrossed and read a third time?" it was determined in the affirmative—yeas 86, nays 82. The resolution was then read a third time, and on the question "Shall it pass?" it was determined in the affirmative—yeas 87, nays 81. The vote of the free States was as follows:

Yeas.	Nays.	Yeas.	Nays.
Maine..... 1	6	New York..... 6	17
New Hampshire.... 1	5	New Jersey..... 4	1
Vermont..... 5	—	Pennsylvania.... 4	19
Massachusetts.... 1	11	Ohio..... 6	—
Rhode Island.... 1	—	Indiana..... 1	—
Connecticut..... 1	6	Illinois..... 1	—

House Journal, second session Sixteenth Congress, pp. 276, 277, 278.

[No. 6.]

Senator BUTLER refers to the clause in the eighth article of the league or confederation of 29th May, 1643, entitled, "Articles of confederation between the Plantations under the Government of Massachusetts, New Plymouth, Connecticut, New Haven, in New England, with the Plantations in combination with them."

The particular clause referred to is in these words:

"It is also agreed that, if any servant run away from his master, into any of the confederate jurisdictions, that in such case (and upon certificate from one magistrate in the jurisdiction out of which said servant fled, or upon other due proof) the said servant shall be either delivered to his master, or any other that pursues and brings such certificate and proof."





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